

PETITION FOR A WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY

Name SUNDBERG, ROGER D.
(Last) (First) (Initial)

FILED

Prisoner Number D79282

Institutional Address P.O. Box 689, BW-116L

MAY 29 2008

Soledad, CA 93960-0689

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

ROGER D. SUNDBERG

(Enter the full name of plaintiff in this action.)

vs.

B. CURRY Warden of CTF;

Board of Parole Hearings;

A. Schwarzenegger, Governor

(Enter the full name of respondent(s) or jailor in this action)

Case No. SI
(To be provided by the clerk of court)

**PETITION FOR A WRIT
OF HABEAS CORPUS**

(PR)

Read Comments Carefully Before Filling In

When and Where to File

You should file in the Northern District if you were convicted and sentenced in one of these counties: Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Benito, Santa Clara, Santa Cruz, San Francisco, San Mateo and Sonoma. You should also file in this district if you are challenging the manner in which your sentence is being executed, such as loss of good time credits, and you are confined in one of these counties. Habeas L.R. 2254-3(a).

If you are challenging your conviction or sentence and you were not convicted and sentenced in one of the above-named fifteen counties, your petition will likely be transferred to the United States District Court for the district in which the state court that convicted and sentenced you is located. If you are challenging the execution of your sentence and you are not in prison in one of these counties, your petition will likely be transferred to the district court for the district that includes the institution where you are confined. Habeas L.R. 2254-3(b).

PET. FOR WRIT OF HAB. CORPUS

- 1 -

Who to Name as Respondent

You must name the person in whose actual custody you are. This usually means the Warden or jailor. Do not name the State of California, a city, a county or the superior court of the county in which you are imprisoned or by whom you were convicted and sentenced. These are not proper respondents.

If you are not presently in custody pursuant to the state judgment against which you seek relief but may be subject to such custody in the future (e.g., detainees), you must name the person in whose custody you are now and the Attorney General of the state in which the judgment you seek to attack was entered.

A. INFORMATION ABOUT YOUR CONVICTION AND SENTENCE

1. What sentence are you challenging in this petition?

(a) Name and location of court that imposed sentence (for example; Alameda County Superior Court, Oakland):

Los Angeles County Superior Court, Norwalk

Court

Location

(b) Case number, if known A474007

(c) Date and terms of sentence 2/24/88, 17 years to life

(d) Are you now in custody serving this term? (Custody means being in jail, on parole or probation, etc.) Yes X No

Where?

Name of Institution: Correctional Training Facility

Address: P.O. Box 689, Soledad, CA 93960

2. For what crime were you given this sentence? (If your petition challenges a sentence for more than one crime, list each crime separately using Penal Code numbers if known. If you are challenging more than one sentence, you should file a different petition for each sentence.)

P.C. 187, P.C. 12022.5

(2nd degree murder with use of a firearm)

3. Did you have any of the following?

Arraignment: Yes X No

Preliminary Hearing: Yes X No

Motion to Suppress: Yes _____ No X

4. How did you plead?

Guilty X Not Guilty _____ Nolo Contendere _____

Any other plea (specify) _____

5. If you went to trial, what kind of trial did you have? N/A

Jury _____ Judge alone _____ Judge alone on a transcript _____

6. Did you testify at your trial? N/A Yes _____ No _____

7. Did you have an attorney at the following proceedings:

(a) Arraignment Yes X No

(b) Preliminary hearing Yes X No

(c) Time of plea Yes X No

(d) Trial N/A Yes _____ No _____

(e) Sentencing Yes X No

(f) Appeal N/A Yes _____ No _____

(g) Other post-conviction proceeding Yes _____ No X

8. Did you appeal your conviction? Yes _____ No X

(a) If you did, to what court(s) did you appeal?

Court of Appeal Yes _____ No _____

Year: _____ Result: _____

Supreme Court of California Yes _____ No _____

Year: _____ Result: _____

Any other court Yes _____ No _____

Year: _____ Result: _____

(b) If you appealed, were the grounds the same as those that you are raising in this

1 petition? Yes _____ No _____
 2 (c) Was there an opinion? Yes _____ No _____
 3 (d) Did you seek permission to file a late appeal under Rule 31(a)?
 4 Yes X No _____

5 If you did, give the name of the court and the result:
 6 _____
 7 _____

8 9. Other than appeals, have you previously filed any petitions, applications or motions with respect to
 9 this conviction in any court, state or federal? Yes _____ No _____

10 [Note: If you previously filed a petition for a writ of habeas corpus in federal court that
 11 challenged the same conviction you are challenging now and if that petition was denied or dismissed
 12 with prejudice, you must first file a motion in the United States Court of Appeals for the Ninth Circuit
 13 for an order authorizing the district court to consider this petition. You may not file a second or
 14 subsequent federal habeas petition without first obtaining such an order from the Ninth Circuit. 28
 15 U.S.C. §§ 2244(b).]

16 (a) If you sought relief in any proceeding other than an appeal, answer the following
 17 questions for each proceeding. Attach extra paper if you need more space.

18 I. Name of Court: Los Angeles County Superior Court
 19 Type of Proceeding: Habeas petition
 20 Grounds raised (Be brief but specific):
 21 a. The Board violated due process
 22 b. The Board failed to fulfill plea agreement
 23 c. _____
 24 d. _____
 25 Result: Denial Date of Result: 10/29/07

26 II. Name of Court: 2nd Appellate District Court of Appeal
 27 Type of Proceeding: Habeas petition
 28 Grounds raised (Be brief but specific):

- a. Board violated due process
- b. Board failed to fulfill plea agreement
- c. _____
- d. _____

Result: Denial Date of Result: 2/15/08

III. Name of Court: Supreme Court of California

Type of Proceeding: _____

Grounds raised (Be brief but specific):

- a. Board violated due process
- b. Board failed to fulfill plea agreement
- c. _____
- d. _____

Result: Denial Date of Result: 4/23/08

IV. Name of Court: _____

Type of Proceeding: _____

Grounds raised (Be brief but specific):

- a. _____
- b. _____
- c. _____
- d. _____

Result: _____ Date of Result: _____

(b) Is any petition, appeal or other post-conviction proceeding now pending in any court?

Yes X No _____

Name and location of court: Los Angeles County Superior Court

B. GROUNDS FOR RELIEF

State briefly every reason that you believe you are being confined unlawfully. Give facts to support each claim. For example, what legal right or privilege were you denied? What happened?

Who made the error? Avoid legal arguments with numerous case citations. Attach extra paper if you

need more space. Answer the same questions for each claim.

[Note: You must present ALL your claims in your first federal habeas petition. Subsequent petitions may be dismissed without review on the merits. 28 U.S.C. §§ 2244(b); McCleskey v. Zant, 499 U.S. 467, 111 S. Ct. 1454, 113 L. Ed. 2d 517 (1991).]

THE BOARD VIOLATED PETITIONER'S RIGHT TO DUE PROCESS BY
 Claim One CONTINUALLY DENYING PAROLE BASED ON THE PREDICTIVE VALUE
 OF HIS 20 YEAR OLD OFFENSE IN THE FACE OF EXEMPLARY IMPRISONMENT,
 AND IN VIOLATION OF HIS PLEA AGREEMENT TO A LESSER OFFENSE.

Supporting Facts: See page 8.

Claim Two:

Supporting Facts:

Claim Three:

Supporting Facts:

If any of these grounds was not previously presented to any other court, state briefly which grounds were not presented and why:

1 List, by name and citation only, any cases that you think are close factually to yours so that they
2 are an example of the error you believe occurred in your case. Do not discuss the holding or reasoning
3 of these cases:

4 See page 23
5
6

7 Do you have an attorney for this petition?

Yes____ No X

8 If you do, give the name and address of your attorney:
9

10 WHEREFORE, petitioner prays that the Court grant petitioner relief to which s/he may be entitled in
11 this proceeding. I verify under penalty of perjury that the foregoing is true and correct.

12
13 Executed on 5-26-08

14 Date

Roger T. Sundberg

Signature of Petitioner

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20 (Rev. 6/02)

INTRODUCTION

Petitioner, Roger Sundberg, respectfully submits the following Writ of Habeas Corpus in the above entitled case and alleges that his confinement is in violation of both the California and United States Constitutions. Petitioner seeks relief from the California Board of Prison Terms' June 7, 2006 decision finding him unsuitable for parole.

The sole question in determining parole suitability is whether the inmate currently presents an "unreasonable risk of danger to society if released" on parole (see Cal. Penal Code § 3041(b); Cal. Code Regs. tit. 15 § 2402(a); In re Wen Lee, 49 Cal.Rptr.3d 931, 937; In re Scott [Scott II] (2005) 133 Cal.App.4th 573, 594-595, 34 Cal.Rptr.3d 905; Hayward v. Marshall (9th Cir. 2008) 512 F.3d 536, 543). The Board's decision lacks any evidentiary support that Petitioner currently poses an unreasonable risk to society and violates his original plea agreement to the lesser offense of second degree murder.

The Board's 6/7/06 decision is Petitioner's fifth parole denial despite his lack of prior criminality, his stable social history, nearly twenty years of exemplary behavior, realistic parole plans, and multiple professional opinions by both Correctional Counselors and Psychologists concluding that he has a "low risk of violence" that is "no more than the average citizen in the community." The basis for these denials has in every case been the immutable factors of the offense. This has been the case despite Petitioner's plea agreement reducing his offense to second degree murder and despite the failure of the Board to show a nexus between the unchanging factors of the offense and his current risk to society.

1 Petitioner's only hope is that at some undetermined point in the
2 future the Board will find that his crime was not "callous" or
3 "cruel" despite the fact that the circumstances of the offense
4 will not have changed.

5 **STATEMENT OF FACTS**

6 **I**

7 Petitioner's fifth parole hearing took place at Correctional
8 Training Facility on June 7, 2006. The two member Board panel
9 consisted of Linda Shelton as Presiding Commissioner and Bill
10 Keenan, Deputy Commissioner. Petitioner was received into the
11 Department of Corrections on March 7, 1988 on one count of murder
12 in the second degree with the use of a firearm. (Exh. A, p. 1)
13 Petitioner stands convicted of second degree murder as a result
14 of a plea agreement reached with the Los Angeles County District
15 Attorney's Office and approved by the Superior Court of Los Angeles
16 County, through which Petitioner accepted responsibility for his
17 actions and granted the state the benefit of his uncontested
18 imprisonment. The sentence was 17 years to life and Petitioner's
19 Minimum Eligible Parole Date was August 4, 1998. The sentencing
20 transcript, which the Board had before it but failed to consider,
21 reflects that the sentencing judge noted "a number of mitigating
22 factors which can be asserted on behalf of the defendant" but that
23 Petitioner was ineligible for probation or any other sentence by
24 law. No aggravating factors were cited by the sentencing court.
25 Therefore, at the time of this hearing Petitioner had already served
26 8 years beyond his Minimum Eligible Parole Date for the offense
27 and sentence agreed upon by the District Attorney's Office (Exh.
28 B, p. 3)

II

Twenty years ago Petitioner and the victim, Steve Summers, were neighbors. Both were married and were experiencing marital problems for different reasons. Petitioner was distraught and depressed over an affair his wife refused to break off. Summers, an abusive drug user and dealer, was estranged from his wife Pamela. Petitioner and Pamela Summers began a relationship, at first as friends sharing their troubles, then later becoming romantically involved. Pamela Summers confided to Petitioner and his wife the physical and emotional abuse she suffered at the hands of her estranged husband who, in turn, taunted and threatened Petitioner and his wife for interfering. Ultimately, Pamela obtained a restraining order against Summers but he repeatedly violated it by returning to their house. During this stressful period, Petitioner, who has a family history of depression, became suicidally depressed. On the day of the crime Petitioner had been drinking and arguing with his wife and had become despondent, convinced his marriage and life were over. Unfortunately, at this moment he glanced out of his open doorway and saw that Summers had returned to the garage, presumably to resume his abusive relationship with Pamela. Unbeknownst to Petitioner Pamela had given in to her husband and allowed him to live in the garage despite the restraining order. In a fit of emotion, Petitioner grabbed his pistol and ammunition, went over to the garage and confronted the victim, whom he believed to be a threat to Pamela as well as to his wife and himself, and who he saw as the source of much of the stress he was under. They struggled in the garage with Summers punching Petitioner in the head and Petitioner firing

1 at Summers and wounding him. The struggle continued and the
2 victim's young son became an unfortunate witness to events. The
3 struggle concluded in the bathroom with Petitioner shooting and
4 killing the victim before turning the gun on himself. This suicide
5 attempt failed but left Petitioner with permanent brain damage
6 resulting in a life long seizure disorder. (Exh. A, pp. 11-14)

7 The Board failed to consider the Probation Report's evaluation
8 of the crime which it had before it. The Probation Report says
9 that:

10 This crime appears to be significantly out of character
11 for him as attested by his arrest-free life to this date
12 and by the numerous letters from family and friends all
of whom agreed that this crime is an unlikely occurrence
in their experience with defendant.

13 It appears that the crime was the result of passion,
14 jealousy and rage aggravated by alcohol which drove
15 defendant to lose control. There is some indication
16 that defendant suffers from chronic depression which
17 he has been able to control most of his life without
medical treatment. It also appears that there were some
financial pressures on defendant since he was trying
to support a family of four on an income of \$1,200 per
month.

18 The report concludes:

19 Defendant has no prior crime record of arrests or
20 convictions and the present matter appears to be
21 significantly out of character for him, indicating perhaps
more emotional instability than criminal make up. (Exh.
C, pp. 10-11)

22 Contrary to regulations (Cal. Code Regs. tit. 15 § 2402 (b))
23 the Board failed to consider the information contained in the
24 Probation Report which indicates that the crime was the result
25 of significant stress that had occurred over a long period of time
26 and that the crime was out of character and therefore unlikely
27 to be repeated.
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III

The Board positively noted Petitioner's lack of any criminal history and his stable social history. Petitioner has no juvenile or adult record. Petitioner had been employed by AT&T as a telephone operator for nine years at the time of the crime. Petitioner remains in regular contact with his mother, sisters, brothers and youngest son. (Exh. A, pp. 15-31)

IV

Petitioner admitted drinking 2 to 4 cans of beer a day during the period before the crime itself (Exh. A, pp. 22-23) The record shows that even though readily available, Petitioner has not used drugs or alcohol during his imprisonment. Furthermore, he has continuously attended Alcoholic's Anonymous since 1989, soon after his reception, and during that time has served as both Secretary and Vice Chairman of his group. (Exh. A, pp. 37-38)

V

The Board's discussion of Petitioner's medical history reveals that he has a family history of depression affecting his mother, sisters and one brother. Petitioner also suffers from depression and had attended group counseling in high school. During the period before the crime Petitioner had become suicidal and had called suicide prevention several times but was unable to obtain a referral because his problems were marriage related and suicide prevention could not provide him a referral for marriage counseling. (Exh. A, pp. 24-26) Petitioner is Currently on C.C.C.M.S. status due to the medication he takes for his depression, and takes medication for seizures as a result of his self-inflicted head wound. According to the Psychological Evaluation prepared by Dr. S. Stack

1 on 9/20/2004 Petitioner's symptoms of depression are "well
2 controlled" by both medications and self-help group participation.
3 Dr. Stack also concludes that Petitioner "has learned strategies
4 for dealing with that stress in the future and I do not expect
5 that he would ever commit another serious crime like this again."
6 (Exh. D, p. 4) This opinion is repeated as far back as the
7 5/23/2000 Psychological Evaluation which found Petitioner's Major
8 Depressive Disorder in "good remission" and noted the "strategies"
9 he had learned to deal with stress and that he was "not expected"
10 to ever commit a violent crime again. (Exh. E, pp. 3-4) Petitioner
11 has clearly made significant gains in treating his depression,
12 a root cause of his commitment offense, and has maintained those
13 gains for a significant period of time.

14 VI

15 Petitioner was granted a Level III override from reception
16 due to the Correctional Counselor's opinion that "subject is not
17 viewed as a serious management problem." (Exh. F, p. 2) Petitioner
18 has confirmed the Counselor's opinion by remaining disciplinary
19 free throughout his incarceration. He has never received a CDC
20 115 disciplinary report and has only one (1) Counseling Chrono
21 received on 5/7/98 for grooming standards because he neglected
22 to shave during a prison lockdown. (Exh. A, pp. 45-46) Petitioner
23 currently has a lowest possible classification score of 19. (Exh.
24 A, pp. 26-27) Petitioner remains housed at a Level II facility,
25 which is not allowed for a term to life prisoner if the crime
26 involves "unusual violence". (Cal. Code Regs. tit. 15 §
27 3375.2(c)(7)(A)) The Life Prisoner's Evaluation Reports, prepared
28 by prison custody Counselors for the Board, from June 2003 and

1 July 2004 both refer to Petitioner's Threat Assessment¹ as a "low
2 degree of threat to the public if released." (Exh. H, p. 4, Exh.
3 I, p. 3) Therefore, in the expert opinions of CDCR staff Petitioner
4 is not an unreasonable threat to others and has not been a security
5 risk throughout his incarceration.

6 VII

7 Petitioner has worked or attended school continuously
8 throughout his incarceration earning "exceptional grades" and
9 comments from his supervisors such as "great worker" and "pleasant
10 attitude and generous nature". (Exh. A, pp. 30-31) Petitioner
11 earned an Associate of Arts Degree in General Education from
12 Hartnell College graduating Cum Laude on 6/1/94. (Exh. J, p. 1)
13 He has continued his education at Coastline College working towards
14 a Computer Science degree. He was certified in Vocational Data
15 Processing on 3/26/93 and has worked as a computer (repair)
16 technician with excellent Work Supervisor Performance Reports.
17 (Exh. A, pp. 32-33) Petitioner has clearly improved his education
18 and learned a marketable skill as noted by Board panels as far
19 back as 6/6/2001. (Exh. K, p. 64)

20 VIII

21 Petitioner has made a sincere commitment to improve himself
22 throughout his incarceration by participating in every available
23 self-help program. Most recently, Dr. D. Woods reported on 1/19/06
24 that Petitioner "is an active and insightful participant" in his
25 Self Esteem Group whose "energy and enthusiasm for self-improvement
26 will assist him to be a positive and productive citizen upon his
27

28 ¹ The CCI's Threat Assessment has been discontinued.

1 release." (Exh. A, p. 34) Licensed Clinical Social Worker C.
2 Mitchell noted on 6/14/06 that Petitioner had been an "active
3 participant" in a Depression Management Group for several years.
4 Petitioner was described as "open in sharing his own issues" as
5 well as offering "effective advice to group members", and noted
6 that for 6 months Petitioner had been "providing emotional and
7 physical support to a terminally ill cellmate." (Exh. A, p. 35)
8 The Board also noted Petitioner's participation in a 12 week Anger
9 Management course and a 13 week IMPACT workshop "designed to provide
10 an opportunity for education and awareness as to the profound
11 negative impact of crime on victims." (Exh. A, pp. 36-37) The
12 record clearly shows Petitioner's dedication to self-improvement
13 as well as his personal growth as a result of these efforts.

14 IX

15 Petitioner's parole plans are to live in Long Beach CA with
16 his mother and his sister. Though not required by regulation,
17 Petitioner has a job offer as a computer programmer or technician
18 with a company owned by a friend of a family friend who promised
19 to hire Petitioner even as a janitor until a computer position
20 became available. The Board acknowledged that he has marketable
21 computer skills. (Exh. A, pp. 56-58) The Board has also found
22 Petitioner to have "good family support", "realistic parole plans"
23 and, a "marketable skill" as far back as his 6/6/01 hearing. (Exh.
24 E, p. 64) These factors have not changed and clearly exceed the
25 factors set out by regulation. (Cal. Code Regs. tit. 15 § 2402(d)(8)

26 X

27 At the conclusion of the hearing, Deputy District Attorney
28 Pearson urged the Board to deny parole (Exh. A, p. 99) in violation

1 of the plea agreement reached with the District Attorney's Office
2 and in violation of Penal Code § 1192.1² which attaches to
3 Petitioner's plea agreement as an express term. At each of
4 Petitioner's four (4) prior hearings his parole has been opposed
5 by the District Attorney's Office in violation of Petitioner's
6 constitutionally established liberty interest as a result of his
7 plea.

8 XI

9 In their 6/7/06 decision the Board denied parole for one year.
10 The Board found that despite Petitioner's "enormous amount of
11 programming" and "serious introspection" the crime was carried
12 out in an "especially cruel and callous manner" and that the "motive
13 was trivial for the action." (Exh. A, pp. 106-107) All of which
14 are aggravating or special (capital) circumstances in violation
15 of Petitioner's plea to the lesser offense of second degree murder
16 with only mitigating factors noted by the sentencing court. The
17 Board also, inexplicably found that Petitioner did not have a job
18 offer despite their earlier review of the letter offering a job
19 and, spoke extensively about Petitioner improving his already
20 exceptional parole plans though the Board did not expressly find
21 his parole plans inadequate. (Exh. A, pp. 108-111) The Board
22 mentioned some of Petitioner's positive factors but failed to
23 consider them as factors of suitability as required by regulations.
24 (Cal. Code Regs. tit. 15 § 2402(d))

25
26 ² A plea agreement is a contract (People v. Shelton (2006) 37 Cal.4th 757, 767) Applicable Statutory
27 code automatically attaches as a term of a plea agreement contract whether or not expressly stated
28 in the agreement. (Farmer's Bank v. Federal Reserve Bank (1923) 262 U.S. 649, 660) See People
v. Watts (1977) 67 Cal.App.3d 173, 178, 180, holding the requirements of Penal Code § 1192.1 apply
to a plea to second degree murder carrying an indeterminate sentence.

1 The 6/7/06 hearing was an almost exact replication of
2 Petitioner's previous four (4) hearings. In each case, despite
3 Petitioner's exemplary behavior, positive Psychological Evaluation,
4 and realistic parole plans he is denied parole primarily on the
5 immutable crime factors despite his plea agreement to the lesser
6 offense of second degree murder. At his first parole hearing on
7 7/24/97 Petitioner was disciplinary free, enrolled in a vocation
8 developing a marketable skill, and was found by the psychologist
9 to be "competent and responsible" with a "below average" violence
10 potential compared with the Level II minimum security prison
11 population. (Exh. L, p. 2) However, the Board found his crime
12 was "especially cruel and callous," and carried out in a "manner
13 which exhibits a callous disregard for human suffering" and "in
14 a calculated and dispassionate manner." (Exh. M, p. 48) Parole
15 was denied for three years.

16 At Petitioner's second hearing conducted on 6/6/01 Petitioner
17 had continued his discipline free behavior, completed his marketable
18 computer skill and had been found by the psychologist to have a
19 violence potential "no greater than the average citizen in the
20 community." (Exh. E, p. 4) The Board found him "not suitable"
21 and denied parole for two years. The Board stated that the crime
22 was "cruel and callous" and that it "demonstrated a callous
23 disregard for human suffering." (Exh. K, p. 63) The Board also
24 found that Petitioner "needs continued therapy to face, discuss,
25 and cope with stress in a non-destructive manner" (Exh. K, p. 64)
26 despite the opinion of the Psychological Evaluation which read
27 that Petitioner had "learned strategies for dealing with stress
28 in the future" and that he was "not expected to ever commit a

serious crime like this again." (Exh. E, p. 4)

Petitioner's third hearing took place on 7/31/03. Once again Petitioner had remained disciplinary free, continued participating in every available self-help program, and maintained his realistic parole plans. Again the Board found him "not suitable" in a one year denial. Again the Board found that the crime was carried out "in an especially vicious manner." The Board inexplicably found that Petitioner "had not sufficiently participated in beneficial self-help and therapy" but failed to note any available self-help or therapy programs that Petitioner could have participated in but had not. (Exh. N, pp. 42-43)

Petitioner's fourth hearing took place on 10/28/04. Again Petitioner continued his exemplary behavior and both the Correctional Counselor and Psychologist found his violence potential to be "low." (Exh. I, p. 3) The Board again found Petitioner "not suitable" in a one year denial. Once more the crime was found to have been carried out in an "especially violent and brutal manner." (Exh. O, p. 61) These repeated denials demonstrate a pattern indicating that no matter what progress Petitioner makes, the crime will always trump his programming. Therefore, Petitioner has no reasonable expectation of parole unless, at some point, a Board panel will find that these same crime factors found by other panels to be "cruel and callous" are not cruel or callous and grant him parole.

XII

To date Petitioner has twenty (20) years of exemplary behavior in prison. With presentencing credits of 439 days (Exh. B, p. 3) and post conviction credits of four (4) months per year (Cal.

1 Code Regs. tit. 15 § 2409(b)) Petitioner has credit for over twenty-
2 six (26) years in custody. The matrix for second degree murder
3 runs from 15-21 years, and first degree murder from 25-33 years.
4 (Cal. Code Regs. tit. 15 § 2403(c)). Petitioner has exceeded the
5 matrix for second degree murder and is well into the term for first
6 degree murder in violation of his plea agreement and Penal Code
7 § 1192.1

8 XIII

9 The Board's reliance on the commitment offense to deny parole
10 is grossly unfounded. The commitment offense is a second degree
11 murder established by plea agreement and is no more egregious than
12 that of other life prisoners who have been granted dates by the
13 Board and relief by the courts in cases such as Rosenkrantz v.
14 Marshall, In re Scott, In re Lee and In re Weider, furthermore,
15 Petitioner's actions were the result of significant stress in his
16 life as the result of marital and financial problems, the prolonged
17 conflict with the victim, and his propensity for depression. These
18 circumstances must be considered, and in a way that meaningfully
19 addresses whether he continues to present an unreasonable risk
20 of danger to society if paroled. (In re Wen Lee, 49 Cal.Rptr.3d
21 931, 937 citing In re Scott 133 Cal.App.4th 537, 594-595; In re
22 Ernest Smith (2004) 114 Cal.App.4th 343; Hayward v. Marshall (9th
23 Cir. 2003) 512 F.3d 536, 543) Under this type of evaluation, the
24 conclusion is inescapable that this life offense is not
25 "particularly egregious" or among the "gravest" of such offenses,
26 especially when viewed from the standpoint of Petitioner's mental
27 state at the time of the crime, his dramatic transformation after
28 nearly twenty (20) years in prison and his plea agreement to the

1 lesser offense of second degree murder, nor does the crime have
2 any predictive value in determining the Petitioner's current risk
3 to society. No evidence shows that the crime alone makes Petitioner
4 a current danger to society if paroled. Thus the Board has failed
5 to tie the facts of the offense to proof of current dangerousness.
6 (Lee, supra, Hayward, supra)

7 XIV

8 In their decision filed 11/20/07 the Superior Court of Los
9 Angeles County denied Petitioner's Writ of Habeas Corpus challenging
10 the Board's 6/6/07 denial of parole. The court found that there
11 was some evidence to support the Board's finding that Petitioner's
12 crime was exceptionally callous and that the motive was very
13 trivial. This analysis is incomplete and improper in that the
14 court, like the Board, failed to point to some evidence that
15 Petitioner's twenty (20) year old offense makes him a current risk
16 to public safety if released on supervised parole. Therefore,
17 the decision was an unreasonable determination of the facts in
18 light of the evidence. Petitioner did not ask the court to re-
19 weigh the evidence, but to address the question of the predictive
20 value of his commitment offense in the face of two decades of
21 exemplary imprisonment and personal growth. The court failed to
22 address this question and therefore failed to apply the appropriate
23 controlling legal standards.

24 Furthermore, the court misstates Petitioner's claim concerning
25 the Board's failure to honor his plea agreement by unnecessarily
26 finding that the District Attorney's office may oppose parole.
27 Petitioner's writ is not against the District Attorney but is
28 against the Board for unconstitutionally depriving him of the

1 benefit of his plea to a lesser offense by continually denying
2 parole based solely on the facts of the offense. Review by this
3 court is necessary to properly address Petitioner's claims.

4 XV

5 Petitioner has no plain, speedy or adequate remedy in the
6 ordinary course of the law. Petitioner contends that further
7 participation in hearings or any aspect of the administrative
8 process of parole consideration will be futile in that he has been
9 denied parole at five (5) consecutive hearings, always for reasons
10 unsupported by the evidence before the Board. Each such denial
11 has been repeatedly upheld by the Board's Decision Review Committee
12 and the Governor has never reviewed any of these denials. Thus,
13 the only available avenue for relief is through the court system
14 by way of the instant Petition for Writ of Habeas Corpus.
15 Petitioner's continued confinement is unlawful, in that he is
16 entitled to be paroled but has been wrongfully denied that right.
17 Said confinement violates the United States Constitution's V and
18 XIV Amendment's due process clause, as well as the comparable
19 provisions of the California Constitution.
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PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this court:

1. Issue a Writ of Habeas Corpus or Order to Show Cause to the Warden of Correctional Training Facility, the Director of the Department of Corrections and Rehabilitation, the Governor and Board of Parole Hearings to inquire into the legality of Petitioner's incarceration;
2. Order the immediate release of Petitioner, or alternatively, order the Board to hold a new parole hearing within forty-five (45) days at which Petitioner will be found suitable and to set a date for release or alternatively, conduct a hearing and if no new information is presented that establishes Petitioner poses a present threat of future violence, to find Petitioner suitable for parole and set a release date;
3. Conduct an evidentiary hearing if necessary to resolve any disputed factual issues, and after the hearing, issue an order directing the State and Board to act as set forth above, and;
4. Discharge Petitioner free from both actual and constructive custody, or alternatively, apply any excess time in custody beyond the proper term for his offense against his maximum period of parole, and;
5. Grant such other and further relief as justice may require, and;
6. Retain jurisdiction to see that relief is actually achieved.

Date: 5-26-08



Roger D. Sundberg
Petitioner in Pro Per

MEMORANDUM OF POINTS AND AUTHORITIESSTANDARD OR REVIEW

The current judicial standard for reviewing a decision of the Board of Parole Hearings to deny parole is to determine if some reliable, relevant evidence was considered showing the prisoner currently poses an unreasonable risk to public safety. (In re Lee (2006) 49 Cal.Rptr.3d 931, 936; Hayward v. Marshall (9th Cir. 2008) 512 F.3d 536, 543) Furthermore, the reasons the Board used to deny parole must be viewed in the context of other factors the Board must consider to see if some evidence shows that the prisoner continues to pose an unreasonable risk to public safety. (Lee, supra, 937 quoting In re Scott [Scott II] (2005) 133 Cal.App.4th at pp. 594, 595, 34 Cal.Rptr.3d; see also In re Capistran (2003) 107 Cal.App.4th 1299, 1306) Finally, a determination should be made whether continuing to deny parole based on the immutable factors of the offense violates due process. (Scott II, supra; Biggs v. Terhune (9th Cir. 2003) 334 F.3d 910, 916-917) However, should the Board misinterpret statutory law and fail to honor the terms of a plea agreement, and in the process violate a prisoner's due process, the non-deferential review standard applies. (Ghirardo v. Antonidi (1994) 8 Cal.4th 791, 800 [questions of law are reviewed de novo]; Brown v. Pool (9th Cir. 2003) 337 F.3d 1155)

I. THE BOARD VIOLATES DUE PROCESS AND DEPRIVES AN APPEARING PRISONER OF THEIR FEDERALLY PROTECTED LIBERTY INTEREST BY UNCONSTITUTIONALLY CHANGING THE NATURE OF A COMMITMENT OFFENSE AND/OR REPEATEDLY RELYING ON THE UNCHANGING FACTORS OF THE CRIME IN THE FACE OF EVIDENCE OTHERWISE.

Courts have repeatedly held that even in cases where offense circumstances support parole denial under regulatory law, due process may preclude the crime alone justifying parole denials

1 in the face of a prisoner's long term exemplary type prison record
2 demonstrating rehabilitation. (See e.g. In re Lee (2006) 49
3 Cal.Rptr.3d 931, 939; Scott II, supra, 34 Cal.Rptr.3d at pp. 916-
4 920; Biggs v. Terhune (9th Cir. 2003) 334 F.3d 910, 916-916;
5 Rosenkrantz v. Marshall (C.D. Cal. 2006) 444 F.Supp.2d 1063, 1084;
6 Hayward v. Marshall (9th Cir. 2008) 512 F.3d 536, 543) This
7 Petitioner has been denied parole five (5) times based on the
8 unchanging circumstances of his offense and has served a term well
9 beyond the minimum number of years to which he was sentenced. (Irons
10 v. Carey [Irons II] (2007) 479 F.3d 658, 665) Petitioner has no
11 criminal history other than his commitment offense. Prior to
12 imprisonment he had a stable social history and continues to have
13 strong family support expressed in the form of letters of support
14 and strong parole plans. In prison, Petitioner has remained
15 disciplinary free, completed a CDC Vocational program (Data
16 Processing), worked as a computer technician, completed an A.A.
17 degree from Hartnell College, and participated in every self-help
18 and therapy program available and applicable to him.

19 A. Repeated Reliance on Unchanging Factors Violates Due Process.

20 In Biggs v. Terhune, supra at 917, the court, clearly referring
21 to a prisoner having been denied parole multiple times based solely
22 on the offense, with a prison record such as Petitioner's held:

23 [While] the parole board's sole...reliance on the gravity
24 of the offense...to justify denial of parole [may] be
25 initially justified as fulfilling the requirements set
26 forth by State law, over time, however, should [a
27 petitioner] continue to demonstrate exemplary behavior
and evidence of rehabilitation, denying him parole simply
because of the nature of his offense would raise serious
questions involving his liberty interest.

28 Prior to this holding, the Biggs court reviewed California's Penal

1 Code and found Penal Code "Section 3041 [,subd.(b)] creates in
2 every inmate a cognizable liberty interest in parole which is
3 protected by the procedural safeguards of the Due Process Clause,"
4 holding that interest arises "upon the incarceration of the inmate."
5 (Biggs, Id. at 914-915, relying in part on McQuillon v. Duncan
6 (9th Cir. 2002) 306 F.3d 895, 901-902) The In re Dannenberg (2005)
7 34 Cal.4th 1061 ruling is limited to the uniform provision of Penal
8 Code section 3041, subd. (a) and has no bearing on the Ninth Circuit
9 holding that the mandatory language of section 3041 (b) creates
10 a liberty interest in parole. (See Sass v. California Board of
11 Prison Terms (9th Cir. 2006) 461 F.3d 1123)

12 Recently California's Appellate Courts have issued rulings
13 affirming the reasoning in Biggs beginning with the case of In
14 re Scott [Scott II] (2005) 133 Cal.App.4th 573, 34 Cal.Rptr.3d
15 905. The court in Scott II was mindful of the due process problems
16 of relying on the commitment offense to deny parole. In a case
17 with many parallels to Petitioner's Scott was convicted of second
18 degree murder with use of a firearm in 1986. The victim was a
19 drug user who Scott suspected of having an affair with his wife,
20 in the course of which the victim provided her with drugs. After
21 several prior confrontations, Scott approached the victim in front
22 of his residence where both Scott's wife and son were present and
23 shot his victim several times striking him in the head and thigh
24 and killing him. (Id. at 571-580) During his incarceration Scott,
25 like Petitioner, exhibited exemplary behavior, received
26 psychological evaluations indicating that his potential for violence
27 was no greater than the average citizen in the community, and that
28 his offense was the product of significant stress. (Id. at 582-

1 585) In 2004 the Board found Scott suitable for parole and the
2 Governor reversed, citing the nature of the offense. (Id. at 586-
3 588) The court granted Scott's petition for writ of habeas corpus
4 ruling "the commitment offense can negate suitability only if
5 circumstances of the crime reliably established by evidence in
6 the record rationally indicate that offender presents an
7 unreasonable public safety risk if released from prison. (Scott
8 II, 133 Cal.App.4th at 595) (Emphasis added) The Governor in Scott
9 II, like the Board in Petitioner's case, failed to make a rational
10 connection between the offense and Scott's current danger to the
11 community.

12 B. Unchanging Offense Factors Lose their Predictive Value with
13 the Passage of Time.

14 In the case of In re Lee (2006) 49 Cal.Rptr.3d 931 the
15 California Appellate Court for the 2nd District affirmed this
16 reasoning as well. Lee had plead guilty to second degree murder
17 and attempted premeditated murder in 1989. In 1987 he had taken
18 a pistol and ammunition to a restaurant to confront a man who owed
19 him money. Lee had decided to shoot the man and then himself if
20 the man did not pay him. Lee fired five times wounding the man
21 and unintentionally killing the man's wife. (Id. at 933) Lee was
22 sentenced to 17 years to life for second degree murder and life
23 for attempted murder. (Id. at 933) Sixteen years later the Board
24 granted Lee parole indicating his lack of a prior criminal record,
25 his excellent behavior in prison, his advanced age and deteriorating
26 health, his mental evaluations indicating a "very low risk of
27 violence", his realistic parole plans and his signs of remorse.
28 (Id. at 933-934) The Governor reversed the decision citing the

1 "atrocious" nature of the crime and that Lee's remorse was only
2 recently expressed. (Id. at 934)

3 The court granted Lee's petition citing that "besides not
4 being especially heinous or callous, Lee's crimes have little,
5 if any, predictive value for future criminality. Simply from the
6 passing of time, Lee's crimes almost 20 years ago have lost much
7 of their usefulness in foreseeing the likelihood of future offense
8 than if he had committed them five or ten years ago." (Id. at 939)
9 The court also held that Lee's motivation for the shooting...augers
10 against any future offenses," (Id. at 939) because it, like Scott's
11 and Petitioner's was the result of significant stress in his life,
12 which had built up over time.

13 The Sixth appellate District Court has also made similar
14 findings in In re Weider (2006) 52 Cal.Rptr.3d 147, a case which
15 also has many similarities to Petitioner's. Weider was distraught
16 over his wife's leaving him for another man, he had made suicide
17 attempts and finally, after almost two years had passed, he
18 confronted his wife and the other man, George Laird, in a crowded
19 restaurant with a pistol he had obtained from his car. Weider
20 fired at the victims, struggled with the victim, his wife, and
21 bystanders resulting in the victims death and the wounding of two
22 bystanders. (Weider, supra at 150-151) Weider plead guilty to
23 second degree murder and two counts of assault with a firearm.
24 (Id. at 151) Like Petitioner Weider demonstrated a model prison
25 record and was judged by a psychologist to be a "low risk" of
26 violence if paroled. Despite this evidence of suitability, the
27 Board in 2002, 2004, and 2005 found Weider unsuitable for parole
28 based primarily on the circumstances of his commitment offense.

1 (Id. at 152-153) In its ruling upholding a granting of the writ
2 by the Trial Court, the Appellate Court found that despite the
3 nature of the crime and that multiple victims were hurt Weider's
4 crime was not "so violent or vicious that Weider remains a public
5 safety risk." (Id. at 161)

6 The Court elaborated that the "Board failed to acknowledge
7 that the crime was the result of significant stress...that had
8 built up over a long period of time," and went on to acknowledge
9 that "the regulation requiring the Board to consider the role that
10 stress may have played in the commission of the crime reflects
11 the law's awareness of human nature." (Id. at 161) The Board's
12 behavior in Petitioner's case place him in precisely the same
13 situation after a greater number of hearings.

14 Of Particular note are the near simultaneous rulings by the
15 Superior Court for the County of Los Angeles and the Federal
16 District Court in the latest and last chapter of the Rosenkrantz
17 saga. In In re Rosenkrantz, 29 Cal.4th at 625, 128 Cal.Rptr.2d
18 104 the California Supreme Court established the doctrine that
19 in order for a parole denial to stand it must contain at least
20 "some evidence" that the prisoner poses an unreasonable risk to
21 public safety. The crime itself may constitute "some evidence"
22 if it is found to be "particularly egregious" compared to other
23 similar offenses as long as this does not "swallow the rule that
24 parole normally be granted." (In re Rosenkrantz, 29 Cal.4th at
25 683 quoting In re Ramirez, (2001) 94 Cal.App.4th 549) In
26 Rosenkrantz's case, the fact that he had, over a period of days,
27 bought a gun, practiced with it, waited outside the victim's
28 apartment before confronting him, shooting him ten times and killing

1 him, was found to be "some evidence" that the crime was "calculated
2 and dispassionate," and included elements of first degree murder,
3 and therefore grounds for denying parole. However, even though
4 this crime was clearly "particularly egregious" both State and
5 Federal courts have found its predictive value to have diminished
6 with time and Rosenkrantz's continuous exemplary conduct.

7 In an order dated 6/26/06 the Superior Court for the County
8 of Los Angeles found that "[Rosenkrantz] has reached the point
9 in which the denial of parole can no longer be justified by reliance
10 on his commitment offense. The Board's continued reliance on the
11 circumstances of the offense runs contrary to the rehabilitative
12 goals espoused by the prison system and has violated due process."
13 (Case No: BH003529) and granted his writ vacating the April 25,
14 2005 Board decision denying parole and releasing Rosenkrantz into
15 the community. In a similar Order the Federal District Court
16 further reinforced this reasoning. They found that the Board's
17 2004 decision denying parole based on crime factors violated due
18 process for two reasons:

19 First, continued reliance upon the unchanging facts of
20 Petitioner's crime makes a sham of California's parole
21 system and amounts to an arbitrary denial of Petitioner's
22 liberty interest.

23 Second...the circumstances of Petitioner's crime do not
24 amount to some evidence supporting the conclusion that
25 Petitioner poses an unreasonable risk of danger if
26 released.

27 ...After nearly twenty years of rehabilitation, the
28 ability to predict a prisoner's future dangerousness
based simply on the circumstances of his or her crime
is nil. (Rosenkrantz v. Marshall 444 F.Supp.2d 1063,
1084 (C.D. Cal. 2006))

Thus, Petitioner, who like Rosenkrantz has 20 years of exemplary
behavior but unlike Rosenkrantz has crime factors that are not

1 as egregious and a conviction that is the result of a plea to the
2 lesser offense of second degree murder rather than a jury verdict,
3 is clearly entitled to relief.

4 C. Petitioner's Crime Factors are not Sufficiently Egregious to
5 Support Parole Denial After 20 Years.

6 In Petitioner's case the Board found that the crime was
7 "carried out in an especially cruel and callous manner...a manner
8 which demonstrates exceptionally callous disregard for human
9 suffering...[and that the] motive was very trivial." (Exh. A, pp.
10 106-107) Despite overwhelming evidence, the Board failed to
11 consider that Petitioner's crime was a result of significant stress
12 which had built up over a long period of time. Like Weider and
13 Lee, Petitioner had become suicidally depressed due to the break
14 up of his marriage. Like Weider and Lee, Petitioner picked up
15 a gun, confronted and killed the victim whom he had come to believe
16 was the source of his stress. However, unlike Weider and Lee,
17 Petitioner did not shoot multiple victims, among them innocent
18 bystanders. Furthermore, unlike Weider and Lee, Petitioner's
19 decision to confront his victim was nearly instantaneous when
20 immediately following an argument with his wife during which he
21 became convinced his marriage and life were over, he observed the
22 victim in the garage next door, grabbed his gun and walked directly
23 over there. Weider's wife had left him two years earlier and Lee
24 had obtained his gun and driven some distance to the restaurant
25 in order to confront his victim.

26 In the case of Scott, the breakup of his marriage was likewise
27 a period of significant stress which, like Petitioner, involved
28 numerous, escalating prior confrontations with a victim who was

1 frequently under the influence of drugs. Scott too shot his victim
2 in front of a minor, in that case Scott's own son. (In re Scott,
3 [Scott II], (2004) 15 Cal.Rptr.3d 32, 35) However, like Lee but
4 unlike Petitioner, Scott had driven a substantial distance before
5 confronting his victim and had ample time to think what the
6 consequences of this confrontation might be.

7 As in Petitioner's case, the Board found that Scott's motive
8 was "very trivial". However, the court found that "there is no
9 motive for unlawfully taking the life of another human being that
10 could not reasonable be deemed 'trivial'." (Scott I, supra, at
11 47) The court also found that the record showed that the
12 "Unpremeditated offense resulted from some provocation on the part
13 of the victim" and while the law on provocation did not limit
14 Scott's criminal liability, it did reflect the "law's concession
15 to human weakness under stressful conditions." Thus finding that
16 Scott's motive was very trivial "ignored not only the evidence
17 that he was under significant stress when he committed his crime,
18 but human nature and experience," and was not supported by even
19 a "modicum of evidence". (Id. at 48) Petitioner's motive was
20 virtually identical to Scott's including the significant stress
21 he was under as a result of the break up of his marriage and his
22 concern for a loved one who was endangered by a relationship with
23 a violent drug abuser. There is no more evidence that Petitioner's
24 motive was "very trivial" than Scott's.

25 When compared to each of these cases: Scott; Lee; Weider;
26 and Rosenkrantz, Petitioner's offense can be seen as no more callous
27 or egregious than theirs and contains many circumstances which
28 make it, if anything, less severe. Like each of the prisoners

1 in these cases, the Board failed to acknowledge evidence that the
2 crime was committed as a result of significant stress over a
3 prolonged period of time. Like each of these cases Petitioner
4 has served nearly twenty years of exemplary prison time and been
5 found by both Correctional staff and psychologists to have a low
6 threat of violence. Like each of these cases Petitioner's crime
7 has no predictive value as to his current or future potential for
8 violence and, therefore, is not "some evidence" Petitioner currently
9 poses a risk of danger to society. Like each and all of these
10 cases, Petitioner is entitled to relief.

11 D. All of the Evidence Before the Board Supports Petitioner's
12 Suitability for Parole

13 The Board is required to consider "All relevant, reliable
14 information" in making their determination of Petitioner's parole
15 suitability. (Cal. Code Regs. tit. 15 § 2281 (b)) Included in
16 this information are circumstances which tend to show both
17 suitability and unsuitability for parole. The Circumstances Tending
18 to Show Unsuitability cited by the Board in Petitioner's case have
19 already been addressed. The Circumstances Tending to Show
20 Suitability are as follows:

- 21 (1) No Juvenile Record. The prisoner does not have a record
22 of assaulting others as a juvenile or committing crimes
with a potential of personal harm to victims.
- 23 (2) Stable Social History. The prisoner has experienced
24 reasonably stable relationships with others.
- 25 (3) Signs of Remorse. The prisoner performed acts which
26 tend to indicate the presence of remorse, such as
attempting to repair the damage, seeking help for or
relieving suffering of the victim, or the prisoner has
given indications that he understands the nature and
magnitude of the offense.
- 27 (4) Motivation for Crime. The prisoner committed his crime
28 as the result of significant stress in his life,
especially if the stress had built over a long period
of time.

- 1 (5) Battered Woman Syndrome.
- 2 (6) Lack of Criminal History. The prisoner lacks any
- 3 significant history of violent crime.
- 4 (7) Age. The Prisoner's present age reduces the probability
- 5 of recidivism.
- 6 (8) Understanding and Plans for Future. The prisoner has
- 7 made realistic plans for release or has developed
- 8 marketable skills that can be put to use upon release.
- 9 (9) Institutional Behavior. Institutional activities
- 10 indicate an enhanced ability to function within the
- 11 law upon release. (Cal. Code Regs. tit. 15 § 2402(d))

12 Petitioner fulfills all these circumstances except Battered Woman

13 Syndrome. He has no juvenile record; he has a stable social

14 history; showed remorse by indicating he understands the nature

15 and magnitude of his offense; committed his crime as a result of

16 significant stress which had built up over time; lacks a criminal

17 history; turned fifty (50) years old in 2007, indicating a reduced

18 probability of recidivism; has demonstrated plans for the future

19 and developed marketable skills; and has twenty (20) years of

20 exemplary institutional behavior. Though the Board mentioned some

21 of these circumstances during the hearing it did not consider them

22 as tending to show suitability in their decision. This was contrary

23 to regulations and thus denied Petitioner the individualized

24 consideration required by due process. (Scott I, supra, at 51)

25 Petitioner has been a model candidate for parole since his first

26 parole hearing and remains so to date. He is therefore entitled

27 to relief that is long overdue.

28 II. DUE PROCESS IS VIOLATED WHEN A PRISONER IS DEPRIVED OF ALL BENEFIT FROM PLEADING GUILTY TO A LESSER OFFENSE.

A. Plea Agreements are Governed by Contract Law Standards.

In California, "courts are required to construe and interpret
plea agreements in accordance with state contract law." (Buckley

1 v. Terhune (9th Cir. 2006) 444 F.3d 688, 695) California has a
2 three step process for interpreting contracts. First, a court
3 must look to the plain meaning of the agreement's language. (Cal.
4 Civil Code § 1638, § 1644) Second, if the language in the contract
5 is ambiguous, "it must be interpreted in the sense in which the
6 promisor believed, at the time of making it, that the promisee
7 understood it." (Cal. Civil Code § 1649) The inquiry considers
8 not the subjective belief of the promisor but, rather the
9 "objectively reasonable expectations" of the promisee. (Bank of
10 the West v. Superior Court, 2 Cal.4th 1254, 1265) Finally, if
11 after this second inquiry the ambiguity remains, "the language
12 of a contract should be interpreted most strongly against the party
13 who caused the uncertainty to exist." (Cal. Civil Code § 1654)
14 "Focusing on the defendant's reasonable understanding also reflects
15 the proper constitutional focus on what induced the defendant to
16 plead guilty." (Brown v. Poole, (9th Cir. 2003) 337 F.3d 1155,
17 1160 quoting United States v. De La Fuente, (9th Cir. 1993) 8 F.3d
18 1333, 1337)

19 California contract law also requires consideration be given
20 the implied terms-the law underlying the agreement, specifically
21 noting, "All things that in law or usage are considered as
22 incidental to a contract, as necessary to carry it into effect
23 are implied there from, unless some of them are expressly mentioned
24 therein, when all other things of the same class are determined
25 to be excluded." (Cal. Civil Code § 1656) Elaborating on this
26 standard, Grubb v. Ranger Ins. Co. (1978) 77 Cal.App.3d 526, holds
27 that under California law all applicable laws in existence when
28 an agreement is made necessarily enter such contract and form part

1 of it, without any stipulation to that effect as if they were
2 expressly referred to and incorporated into its terms. Such
3 principle is held to embrace a state's statutes. Also see Southern
4 Pacific Milling Co. v. Billwack (1942) 50 Cal.App.2d 79, holding
5 that as regards to contracts, it is a well-settled principle that
6 that which is implied by law becomes part of that contract as that
7 which is therein written, and if the contract is clear and complete,
8 when aided by that which is imported into it by legal implications,
9 it cannot be contradicted by parol in respect of that which is
10 implied any more than in respect of that which is written. Not
11 only are all applicable law and statutes expressly contained in
12 the plea agreement but also all government entities (i.e. agencies)
13 are bound by the plea including the Governor and the Board. (Giglio
14 v. United States (1972) 450 U.S. 150, 154)

15 B. Contract Law Requires Lesser Punishment for a Plea to a Lesser
16 Offense.

17 California Penal Code § 1192.1 is therefore an expressly
18 attached term of Petitioner's plea contract, and the Board, as
19 a part of the California State Government, is bound by these terms.
20 Penal Code § 1192.1 reads:

21 Upon a plea of guilty to an information or indictment
22 accusing the defendant of a crime or attempted crime
23 divided into degrees when consented to by the prosecuting
24 attorney in open court and approved by the court, such
plea may specify the degree there of and in such event
the defendant cannot be punished for a higher degree
of the crime or attempted crime than the degree specified.

25 Penal Code § 3041 is also an express term of Petitioner's plea
26 contract and the Board is bound by it as well. P.C. § 3041 reads:

27 One year prior to the inmate's minimum eligible parole
28 date a panel consisting of at least two Commissioners
of the Board of Prison Terms shall meet with the inmate

1 and shall normally set a parole release date as provided
2 in section 3041.5 (Emphasis added)

3 When Petitioner accepted responsibility for his actions and
4 plead guilty to the lesser offense of second degree murder, and
5 was sentenced to 17 years to life the court noted the mitigating
6 factors of his crime. Neither the court nor the prosecution raised
7 aggravating factors, leading Petitioner to reasonably understand
8 that, barring misconduct on his part, his uniform term would be
9 set according to the matrix for second degree murder, at his first
10 parole hearing as required by the Penal Code sections then became
11 a part of his plea contract, when it was accepted by the court
12 and he was sentenced. These Penal Code sections that became a
13 part of his plea contract, when it was accepted by the court and
14 he was sentenced. These Penal Code sections need not have been
15 known to him at the time because their implications are the same
16 as the plain meaning of the language of his plea; that his crime
17 would be treated, and punished, like an ordinary second degree
18 murder. It would be completely unreasonable for anyone to conclude
19 from these facts that Petitioner would be repeatedly denied parole
20 based solely on the crime until he had served a term commensurate
21 with a first degree murder and even then, would still be in prison
22 with no reasonable expectation of parole.

23 C. Contract Las Requires the Reciprocal Benefit of Lessened
24 Punishment be Provided to Petitioner.

25 California's courts have consistently recognized parties to
26 a plea contract enter into that agreement understanding both will
27 mutually benefit, the State from the defendant's unopposed
28 imprisonment and the defendant by serving a lessor term than that

1 contemplated for the original offense charged. Describing that
2 basis for plea bargains, the court in People v. Collins (1996)
3 45 Cal.App.4th 849, 862, noted:

4 Both our State Supreme Court and the United States Supreme
5 Court have recognized that a plea bargain is based upon
6 "reciprocal benefit" or "mutuality of advantage between
7 the prosecutor and the defendant (e.g. People v. Collins
8 (1978) 21 Cal.3d 203, 214-215, Brady v. United States
9 (1970) 397 U.S. 742, 752, 90 S.Ct. 1463, 1471, 25 L.Ed.2d
10 747)" (Emphasis added)

11 Since a plea bargain is "based upon reciprocal benefit" Collins
12 45 Cal.App.4th clearly stands for the principle that unless both
13 parties to a plea bargain mutually benefit, there is no plea
14 contract. Previously recognizing this principle, the court in
15 People v. Collins 21 Cal.3d at 214-215, held the concept of
16 "reciprocal benefits" is "critical" to plea agreements, explaining
17 that in exchange for providing the state his uncontested
18 imprisonment, the defendant receives "lessened punishment." Collins
19 characterization of reciprocal benefits as critical is instructive.
20 It establishes that exchange of benefits as crucial to plea
21 bargains, thus so essential its absence renders a plea invalid.

22 Reiterating the State's long standing position that parties
23 to a plea agreement must reciprocally benefit if there is to be
24 a plea contract, the court in People v. Rhoden (1999) 75 Cal.App.4th
25 346, 351, held:

26 Pursuant to this procedure the defendant agrees to plead
27 guilty in order to obtain a reciprocal benefit, generally
28 consisting of less severe punishment than that which could
result if he were convicted of all the offenses charged.
[Citation] This more lenient disposition of the charges
is secured in part by prosecutorial consent to the
imposition of clement punishment (§1192.5) by the People's
acceptance of a plea to a lesser offense than that
charged, either in degree (§ 1192.1, § 1192.2) or kind
[citation], or by the prosecutor's dismissal of one or
more counts of a multicount indictment or information.

1 Recognizing the principle of "lessened punishment" is essential
2 to a plea agreement, the federal court in Weaver v. Graham (1981)
3 450 U.S. 24, 32, 67 L.Ed.2d 17, 25, 101 S.Ct. 460, held that, "we
4 previously recognized that a prisoners eligibility for reduced
5 imprisonment is a significant factor entering into both the
6 defendant's decision to plea bargain and the judge's calculation
7 of the sentence to be imposed. Wolf v. McDonnell, 418 U.S. 539,
8 557, 4 L.Ed.2d 395, 94 S.Ct. 2693" Punishment reduction for those
9 pleading guilty was recognized in Corbit v. New Jersey (1978) 489
10 U.S. 212, 223-224, holding, "[there is] leniency in return for
11 a plea [of guilty], leniency that is denied if one goes to trial,
12 [as] the standard of punishment is necessarily different for those
13 who plead and those who go to trial." Addressing the same
14 principles, the California court similarly held in People v.
15 Cimarusti (1978) 81 Cal.App.3d 314, 323, "[I]t is the function
16 of the executive branch to engage in negotiation with the defense
17 by which a lenient disposition of the charge made is secured without
18 trial." Also see People v. Superior Court for Los Angeles County
19 (Felman) (1976) 59 Cal.App.3d 270 holding, the plea bargain process
20 includes acceptance of a plea of guilty in return for clemency
21 in punishment.

22 D. Some Evidence Standard is Inappropriate for Plea Conviction.

23 A plea contract resulting in a defendant being indeterminately
24 sentenced is executed in multiple stages. Following the parties
25 agreement, the plea's express terms and consequences are specified
26 before the court, and the People may stipulate the offense for
27 which the defendant is being convicted and punished. During the
28 next stage the defendant is sentenced, providing the State its

1 mutual benefit in the form of his uncontested imprisonment. Once
2 the defendant serves the uniform term specified by statute and
3 regulation for the gravity, circumstances and degree of the
4 stipulated offense, the State must timely provide the defendant
5 with their reciprocal benefit, their critically owed lessened
6 punishment for the agreed upon offense type and degree. (People
7 v. Collins, supra, 21 Cal.3d at 214-215) Should the State executive
8 fail to provide the defendant with his reciprocal benefit, the
9 Court, as a party to the agreement and stipulation must act to
10 ensure the defendant receives his bargained for consideration.
11 This is not a "some evidence" question, it is instead a contract
12 dispute settled under California contract law. As a party bound
13 by the plea contract it approved, the court now has the
14 responsibility to enforce its terms by providing Petitioner his
15 owed contractual benefits.

16 At this point in time, twenty (20) years after entering his
17 plea and granting the State its benefit, Petitioner has lost the
18 only benefit he could have received under contract, a parole date
19 within the matrix for second degree murder. The irrevocable loss
20 of this benefit is a result of the Board's repeated denials of
21 parole based primarily on the factors of the offense. Denial based
22 solely on the factors of the offense has been found to be lawful
23 by the California Supreme Court in the cases of In re Rosenkrantz,
24 supra, at 625) and in In re Dannenberg, ((2005) 34 Cal.4th 1061)
25 if the crime factors are found to be "particularly egregious"
26 (Rosenkrantz, supra, at 683 quoting Ramirez, supra, at 570) which
27 means "more than the minimum necessary to sustain the conviction"
28 (Dannenberg, supra, at 1071). However, both of these cases arose

1 out of jury trials where the "some evidence" standard used by the
2 Board was found to be less than the "reasonable doubt" standard
3 juries are held to. Consequently, this standard is opposite that
4 held applicable for convictions as a result of plea agreements,
5 which require a more lenient disposition.

6 If the executive branch of government is permitted to consider
7 an offense as more severe than that stipulated at plea, that action
8 would deprive the plea convicted prisoner of their owed leniency
9 and remove their eligibility for reduced punishment. It would
10 apply the same standard of punishment to one convicted by plea
11 or by trial, contrary to Corbit v. New Jersey, 439 U.S. at 223-
12 224 holding identical "standard[s] of punishment" are not applied
13 to "those who pled" versus "those who [went] to trial," as those
14 who pled receive "leniency" in the form of "reduced punishment."
15 Using the Dannenberg standard, the Board found Petitioner's offense
16 to be of a more serious nature than the minimum necessary to sustain
17 a conviction and thus depriving him of his plea owed lenient
18 disposition. Such action on the part of a government agency
19 violated the implied covenant of good faith and fair dealing present
20 in Petitioner's contract with the State, unreasonably depriving
21 him of the substantial benefit on which his acceptance of the
22 offered plea was clearly predicated. Mere consideration for parole,
23 where unchanging factors of the stipulated offense may be used
24 to trump the requirement that parole normally be granted
25 (Rosenkrantz, supra, 29 Cal.4th at 683) cannot reasonable be
26 considered a benefit as it does not provide the leniency or reduced
27 punishment required by law. Any benefit to Petitioner from the
28 plea bargain becomes purely illusory in this situation. Indeed,

1 if Petitioner is held under the Dannenberg standard he will find
2 himself in the puzzling position of having a weaker case for parole
3 as a result of his plea to the lesser offense of second degree
4 murder, which the Board finds to be more serious than the minimum
5 necessary to sustain a conviction, then he would have if he had
6 rejected the plea and been convicted of the greater offense of
7 first degree murder by a jury. Then, as a first degree murder,
8 it would be much more difficult for the Board to consider his
9 offense as "more serious" or "particularly egregious" and therefore
10 it would not justify denial of parole. California law holds that
11 neither party to a contract may do anything injuring the right
12 of the other to receive benefits of that agreement. (Lee v.
13 Crusader, 49 Cal.App.4th 1750, Foson v. Palace 73 F.3d 1448)
14 Accordingly the Board's contractually estopped behavior in this
15 case requires their decision to deny parole be vacated.

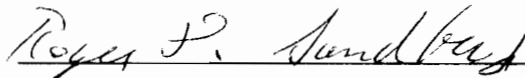
16 17 CONCLUSION

18 Through the actions of its representatives the State of
19 California violated the express and implied terms of their plea
20 contract with Petitioner, depriving him of the contractually owed
21 beneficial consequences from the mutually advantageous agreement.
22 It is equally clear that after 20 years, given Petitioner's positive
23 prison program, that the immutable factors of his offense no longer
24 provide predictive value demonstrating he currently poses an
25 unreasonable risk of danger to society if released. Accordingly,
26 Petitioner respectfully submits this court should issue a Writ
27 of Habeas Corpus or Order to Show Cause, directed to the State
28 Executive to inquire into the legality of Petitioner's continued

1 imprisonment, and after briefing and an evidentiary hearing, issue
2 an order to release Petitioner and discharge him from parole, direct
3 any and all such other relief as is appropriate under the
4 circumstances, and retain jurisdiction to see that relief is
5 actually achieved.

6
7
8 Date: 5-26-08

Respectfully submitted,

9
10 

11 Roger D. Sundberg D79282

12 Petitioner, In Pro Per
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EXHIBIT "A"

SUBSEQUENT PAROLE CONSIDERATION HEARING
STATE OF CALIFORNIA
BOARD OF PAROLE HEARINGS

In the matter of the Life)
Term Parole Consideration)
Hearing of:) CDC Number D-79282
)
ROGER SUNDBERG)
)
-----)

**INMATE
COPY**

CORRECTIONAL TRAINING FACILITY
SOLEDAD, CALIFORNIA

JUNE 7, 2006

9:30 A.M.

PANEL PRESENT:

Ms. Linda Shelton, Presiding Commissioner
Mr. Bill Keenan, Deputy Commissioner

OTHERS PRESENT:

Mr. Roger Sundberg, Inmate
Mr. Richard Rutledge, Attorney for Inmate
Mr. David Pearson, Deputy District Attorney
Correctional Officers Unidentified

CORRECTIONS TO THE DECISION HAVE BEEN MADE

----- See Review of Hearing
----- Transcript Memorandum

Berenice Billington, Peters Shorthand Reporting

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P R O C E E D I N G S

DEPUTY COMMISSIONER KEENAN: On record.

PRESIDING COMMISSIONER SHELTON: Okay.

Good morning again, sir. Today we are here for a Subsequent Parole Consideration Hearing for Roger Sundberg, D as in David 79282. Today's date is June 7th, 2006. The time is 9:30 a.m. We are located at CTF. Mr. Sundberg was received on March 7th, 1988, committed from Los Angeles County. His life term began on August 4th, 1988, with his minimum eligible parole date being August 4th, 1998. The controlling offense for which the Inmate is committed is set forth in case number A474007, charging in count one violation of PC 187, murder in the second degree, with a 12022.5 PC, use of a firearm. The Inmate received a term of 15 years to life plus two-year enhancement equaling 17 years to life. Okay. Mr. Sundberg, this hearing is being tape recorded for voice identification purposes, so we will go around the room and say our first name, our last name, spell our last name, and when we get to you, please add your CDC number. I will start and go to my left. My name is Linda Shelton, S-H-E-L-T-O-N, Commissioner.

DEPUTY COMMISSIONER KEENAN: Bill Keenan,

1 K-double-E-N-A-N, Deputy Commissioner.

2 **DEPUTY DISTRICT ATTORNEY PEARSON:** David
3 Pearson, P-E-A-R-S-O-N, Deputy District Attorney
4 from Los Angeles.

5 **ATTORNEY RUTLEDGE:** Richard Rutledge,
6 R-U-T-L-E-D-G-E, counsel for Mr. Sundberg.

7 **INMATE SUNDBERG:** Roger Sundberg, S-U-N-
8 D-B-E-R-G, number is D as in David 79282.

9 **PRESIDING COMMISSIONER SHELTON:** Thank
10 you. And for the record, we have two officers
11 in the room for security purposes who will not
12 be participating in today's hearing. All right.
13 Mr. Sundberg, before we started, you were
14 mentioning that you had been having some blood
15 work and you were fasting. Are you going to be
16 able to walk through this hearing okay?

17 **INMATE SUNDBERG:** Sure.

18 **PRESIDING COMMISSIONER SHELTON:** I want
19 to clarify a few things. I know in - the
20 records indicate that you signed BPT Form 1073
21 on June 10th of 2005, and you signed a form
22 today for accommodation for disability, so I
23 want to take a second to walk through - through
24 those for the record. Now how long had you been
25 fasting for your blood work?

26 **INMATE SUNDBERG:** Since last night.

27 **PRESIDING COMMISSIONER SHELTON:** Okay.

1 So you'll be able to hang in there for another -

2 INMATE SUNDBERG: Yeah.

3 PRESIDING COMMISSIONER SHELTON: - couple
4 hours?

5 INMATE SUNDBERG: Yeah. I'm just envying
6 you your coffee.

7 PRESIDING COMMISSIONER SHELTON: Oh. I'm
8 sorry. Do you want me to put it away?

9 INMATE SUNDBERG: No.

10 PRESIDING COMMISSIONER SHELTON: All
11 right. I also note for the record you're
12 wearing glasses. Are those prescription?

13 INMATE SUNDBERG: Yes.

14 PRESIDING COMMISSIONER SHELTON: And do
15 they adequately meet your visual needs?

16 INMATE SUNDBERG: Yes. I have this pair
17 for general vision and a separate for being able
18 to read.

19 PRESIDING COMMISSIONER SHELTON: Okay.
20 And you're comfortable with all of that. Do you
21 have any -

22 INMATE SUNDBERG: Right.

23 PRESIDING COMMISSIONER SHELTON: - kind
24 of hearing difficulties?

25 INMATE SUNDBERG: No.

26 PRESIDING COMMISSIONER SHELTON: And it
27 looks to me like you're fairly mobile, no

1 problems walking in here or walking out or -

2 **INMATE SUNDBERG:** Not so far.

3 **PRESIDING COMMISSIONER SHELTON:** Not so
4 far. Okay. Now as I understand it, are you
5 actively participating in Triple CMS currently?

6 **INMATE SUNDBERG:** Yes.

7 **PRESIDING COMMISSIONER SHELTON:** And can
8 you tell me what kind of medication you are on?

9 **INMATE SUNDBERG:** I'm on antidepressants
10 and - and an antihistamine to help with sleep,
11 and I'm on some other medications besides what
12 I'm on for Triple CMS. I'm also - I take
13 seizure disorder drugs to keep from having
14 seizures, and aspirin and -

15 **PRESIDING COMMISSIONER SHELTON:** What
16 kind of -

17 **INMATE SUNDBERG:** - just (indiscernible)
18 things.

19 **PRESIDING COMMISSIONER SHELTON:** -
20 seizures?

21 **INMATE SUNDBERG:** Generally fairly light
22 seizures, but they're from the - the gunshot
23 wound to the head.

24 **PRESIDING COMMISSIONER SHELTON:** So it's
25 not an epilepsy condition?

26 **INMATE SUNDBERG:** Well, technically I
27 guess you could call it that, but it's under

1 control.

2 **PRESIDING COMMISSIONER SHELTON:** Okay.

3 Is there any reason you can't participate in
4 today's hearing because of those medications?

5 Do you feel alert and active? You appear to be
6 to me.

7 **INMATE SUNDBERG:** I believe I can
8 participate, you know, normally.

9 **PRESIDING COMMISSIONER SHELTON:** Okay.
10 How long have you been involved in Triple CMS,
11 sir?

12 **INMATE SUNDBERG:** Oh, I've been under
13 psychiatric care since I came into the - the
14 system, so I don't think they called it Triple
15 CMS then, but -

16 **PRESIDING COMMISSIONER SHELTON:** So the
17 whole time you've been incarcerated?

18 **INMATE SUNDBERG:** Yes.

19 **PRESIDING COMMISSIONER SHELTON:** Okay.
20 Mr. Rutledge, have we met all the accommodations
21 needed for your client?

22 **ATTORNEY RUTLEDGE:** Yes, Commissioner.

23 **PRESIDING COMMISSIONER SHELTON:** Okay.
24 Now Mr. Sundberg, you've been involved in these
25 hearings before.

26 **INMATE SUNDBERG:** This is the fifth one,
27 I believe.

1 **PRESIDING COMMISSIONER SHELTON:** Okay.
2 Can you tell us what you think they're about? I
3 want to show for the record that you understand
4 why you're here.

5 **INMATE SUNDBERG:** The Board is required
6 to do periodic hearings. I believe there's -
7 that an inmate is normally supposed to be
8 released to parole after he's done his minimum
9 term but has to go through a parole hearing at
10 which time they determine whether he's - if
11 there's some reason that he's unsuitable to be
12 paroled at that time.

13 **PRESIDING COMMISSIONER SHELTON:**
14 Basically you're right. I would like to turn it
15 around into a more positive light though in that
16 we're here to determine your suitability for
17 parole. We're not here to look for reasons to
18 not parole you; we're looking for reasons to
19 parole you, so - and that's why we get your
20 involvement. So you've been here before, you
21 know the process. You know you have certain
22 rights, and one of those rights is to have an
23 impartial panel, and that would be Commissioner
24 Keenan and myself. Do you have any problems
25 with us being your panel today?

26 **INMATE SUNDBERG:** I don't know anything
27 about either of you personally, so nothing to my

1 knowledge would indicate that.

2 **PRESIDING COMMISSIONER SHELTON:** So
3 you're find if we go ahead?

4 **INMATE SUNDBERG:** We can go ahead.

5 **PRESIDING COMMISSIONER SHELTON:** All
6 right. Terrific. The other right I want to let
7 you know is that if you wanted to appeal any
8 decision today, there's a new process you may or
9 may know about, you have to go through the court
10 process for an appeal issue, and your attorney
11 can tell you about that or you can find out more
12 about that in the prison law library.

13 **INMATE SUNDBERG:** Okay.

14 **PRESIDING COMMISSIONER SHELTON:** This
15 came up about two years ago so I didn't know if
16 you were aware of it or not but I wanted you to
17 be aware.

18 **INMATE SUNDBERG:** And I think it's come
19 up since my last Board.

20 **PRESIDING COMMISSIONER SHELTON:** Okay.
21 All right. Sir, you are not required to admit
22 to or discuss your offense; however, this panel
23 does accept as true the findings of the court.
24 Do you know what that means?

25 **INMATE SUNDBERG:** I think so.

26 **PRESIDING COMMISSIONER SHELTON:** Tell -
27 tell me what you think it means.

1 **INMATE SUNDBERG:** Well -

2 **PRESIDING COMMISSIONER SHELTON:** We'll
3 walk through this.

4 **INMATE SUNDBERG:** Okay. Okay. I - I
5 took a plea bargain to the offense so
6 essentially the Court found me guilty of the
7 crime. As to specifics of - of what happened, I
8 don't think that there is - that there are any
9 specifics since it was a - a plea bargain.
10 There was nothing - no trial at which different
11 facts were found to be true or not true.

12 **PRESIDING COMMISSIONER SHELTON:** What
13 we're going -

14 **INMATE SUNDBERG:** And I've admitted to
15 having done the crime.

16 **PRESIDING COMMISSIONER SHELTON:** And
17 that's what - we're going to go off the factual
18 basis as we have it recorded from the paperwork,
19 okay? Does that - does that make sense to you?
20 We're not here to try you, we're not going to
21 get into all the hooey-blueey of all of that.
22 We're going to talk about what's written down,
23 what's been accepted, what you've acknowledged.

24 **INMATE SUNDBERG:** Uh-huh.

25 **PRESIDING COMMISSIONER SHELTON:** Then
26 we're going to talk about your prior record and
27 your social history, and we'll talk about post-

1 conviction factors, your parole plans, and have
2 an opportunity to ask you some questions, and
3 we'll go from there.

4 **INMATE SUNDBERG:** Okay.

5 **PRESIDING COMMISSIONER SHELTON:** All
6 right? All right. Commissioner, do we have any
7 confidential information?

8 **DEPUTY COMMISSIONER KEENAN:** There's a
9 confidential file. It may be used.

10 **PRESIDING COMMISSIONER SHELTON:** And we
11 will notify the attorneys if we go that far,
12 correct?

13 **DEPUTY COMMISSIONER KEENAN:** I concur.

14 **PRESIDING COMMISSIONER SHELTON:** Okay.
15 I've already passed the Hearing Checklist around
16 to both attorneys. Mr. Pearson, you signed and
17 dated you have everything you need for the
18 hearing?

19 **DEPUTY DISTRICT ATTORNEY PEARSON:** I did.

20 **PRESIDING COMMISSIONER SHELTON:** And Mr.
21 Rutledge?

22 **ATTORNEY RUTLEDGE:** Yes, Commissioner.

23 **PRESIDING COMMISSIONER SHELTON:** Okay.
24 Great. All right. Are there any additional
25 documents to be submitted?

26 **ATTORNEY RUTLEDGE:** There may be a chrono
27 that may be submitted.

1 **PRESIDING COMMISSIONER SHELTON:**

2 Depending upon if it's -

3 **ATTORNEY RUTLEDGE:** We don't

4 (indiscernible).

5 **PRESIDING COMMISSIONER SHELTON:** Okay.

6 Terrific. We can do that at any time. Are

7 there any preliminary objections?

8 **ATTORNEY RUTLEDGE:** No, Commissioner.

9 **PRESIDING COMMISSIONER SHELTON:** Will
10 your client be speaking with us today?

11 **ATTORNEY RUTLEDGE:** He doesn't want to
12 speak about the commitment offense but he will
13 be answering questions regarding family and that
14 type of thing.

15 **PRESIDING COMMISSIONER SHELTON:**

16 Terrific. All right. Sir, would you please
17 raise your right hand. Do you solemnly swear or
18 affirm that the testimony you give at this
19 hearing will be the truth, the whole truth and
20 nothing but the truth?

21 **INMATE SUNDBERG:** I do.

22 **PRESIDING COMMISSIONER SHELTON:** Thank
23 you. All right. We understand, and you have
24 the right to not speak to the offense. I will -
25 what I will do is enter into the record a
26 summary of the crime, and I will also enter in
27 your version as it's in the report so that you

1 have your side of the story entered as well for
2 you. So I'm going to refer to the October 2005
3 Board Report summary of the crime.

4 "The victim was estranged from his wife,
5 Pamela Somers, and during their marital
6 difficulties his wife became involved
7 with the prisoner. At first it was just
8 a matter of talking over her problems,
9 but as time went on, they became
10 romantically involved. The victim was
11 physically abusive to her so when they
12 separated she had a restraining order
13 placed against him. During the
14 separation the victim had no place to
15 stay so the victim's wife allowed him to
16 stay in the garage at her residence.
17 While the victim was staying in the
18 garage he still had the freedom to go in
19 and out of the house as well as in the
20 garage and this irritated the prisoner.
21 On the night of the crime, Sundberg saw
22 the victim moving about the garage and
23 back and forth into the house. The
24 prisoner's house was located next to the
25 victim's residence. The prisoner's rage
26 escalated to a point where he took a
27 pistol inside his house and went to the

1 driveway next-door and shot the victim
2 four times. The victim went inside his
3 wife's house and staggered toward the
4 bedroom. The prisoner followed him with
5 the pistol and occasionally struck the
6 victim. At this point the victim's son,
7 who was in the house, grabbed a plastic
8 baseball bat and tried to stop Sundberg
9 from killing his father. The son was
10 unable to stop the prisoner. Sundberg
11 kept on following the victim into the
12 bathroom where the victim fell into the
13 bathtub. At this point they argued some
14 more and Sundberg shot the victim twice
15 in the head. The victim's son observed
16 the killing. The prisoner then left the
17 victim's house. Before the police
18 arrived to arrest him, he tried to shoot
19 himself in the head."

20 All right. I'm also going to enter in, as I
21 indicated, the prisoner's version taken from the
22 same report, October 2005 Board Report.

23 "For about a year there was an ongoing
24 conflict between my wife Robin and I, and
25 Steve Somers, the victim. His wife Pam
26 and my wife became friends not long after
27 we moved across from her. She was often

1 at her house, sometimes with her son,
2 especially so when she was afraid of
3 Steve. He was a dealer and heavy user of
4 cocaine and amphetamines. When he used
5 too much and when he came down, he became
6 very angry and abusive, primarily towards
7 Pam. She told me that he went - she told
8 me that this went as far as his tying her
9 up and torturing her, which he
10 acknowledge and then laughed about. He
11 began threatening my wife and me for
12 interfering. We were supportive of Pam
13 and protective of her and her son, Jimmy.
14 This became increasingly stressful.
15 Eventually, our friendship with Pam
16 developed to include a physical
17 relationship. My job was stressful, my
18 wife and I were having financial
19 problems, and I began having a marital
20 crisis over her resumption of a previous
21 affair that I was jealous of. I became
22 severely depressed and suicidal. Pam got
23 a restraining order to keep Steve away,
24 but he sometimes came back and would
25 leave only when the police were called or
26 he was threatened with their being
27 called. My wife and I were drinking and

1 arguing about her affair and I became
2 utterly despondent, feeling that the
3 marriage my life was based upon was over
4 and therefore my life along with it as
5 well. Walking past my open front door I
6 saw Steve and became enraged that this
7 continuing threat and stress, which I
8 thought was finally gone, was back again.
9 I got my pistol and extra ammunition and
10 went over to the garage he was in. He
11 ran at me, I shot at him, and we fought.
12 I literally saw red after he punched me
13 in the head a few times. I backed up and
14 reloaded. He ran into the house and into
15 the bathroom and I followed. We fought
16 more and I shot more, and at some point I
17 shut the door. He looked to me like he
18 died. I think I reloaded at this point
19 and then I shot myself in the head and
20 blacked out. Bone fragments were later
21 removed from my brain by surgery at USC
22 Medical Center."

23 All right. Sir, we will move on, and I'll need
24 you to work with me on this - well, maybe not
25 too much because I was going to go into your
26 prior record and it appears you have none; no
27 juvenile record, no adult record whatsoever.

1 **INMATE SUNDBERG:** No.

2 **PRESIDING COMMISSIONER SHELTON:** Okay.

3 Good. Then you can help me walk through your
4 social history. I want to go through your
5 social history and have you tell me what's
6 right, what's wrong, if you want to add
7 anything, delete anything. All right. You were
8 born in Minnesota and brought to California by
9 your parents in 1962 when you were five years
10 old. You're the youngest of seven siblings, and
11 the record shows that there is no other
12 criminality in your family. Tell me about your
13 brothers and sisters.

14 **INMATE SUNDBERG:** Okay. I'm the
15 youngest. My -

16 **PRESIDING COMMISSIONER SHELTON:** Why
17 don't you move microphone a little closer to
18 you. It's pointing in the wrong direction.
19 There you go. Thank you.

20 **INMATE SUNDBERG:** Like so?

21 **PRESIDING COMMISSIONER SHELTON:** Yeah,
22 that's perfect.

23 **INMATE SUNDBERG:** Okay. I'm the youngest
24 of - of seven. There's two boys and four girls
25 besides myself. I think my oldest brother is
26 approximately maybe 15 years older than I am,
27 maybe a little more than that, and I'm not sure

1 what you're looking for, to tell you the truth,
2 I mean -

3 PRESIDING COMMISSIONER SHELTON: What do
4 they do?

5 INMATE SUNDBERG: Oh. They -

6 PRESIDING COMMISSIONER SHELTON: And -
7 and your relation, are you close with them -

8 INMATE SUNDBERG: Oh -

9 PRESIDING COMMISSIONER SHELTON: - still
10 -

11 INMATE SUNDBERG: - okay.

12 PRESIDING COMMISSIONER SHELTON: - how
13 was your growing-up time? I came from a large
14 family too, so you know there's always of stuff
15 going on -

16 INMATE SUNDBERG: Right.

17 PRESIDING COMMISSIONER SHELTON: - so -

18 INMATE SUNDBERG: Yeah. It's - it's a
19 big family so we were - but because of the age
20 spread between us, my oldest brother was already
21 going to college by the time we, you know, moved
22 out to California, and my oldest sisters, around
23 that time also, you know, were grown and moved
24 off on their own but we kept in touch and they'd
25 come back and visit. My oldest brother has a
26 medical consulting company. My oldest sister is
27 a housewife and mother, as is the next sister in

1 line. Then it would be my brother, who was an
2 engineer, and I think he's current on disability
3 for back problems, and then I had another two
4 sisters, one of which I believe is now on - on
5 disability, she just had a car accident recently
6 and had some bad injuries to her back, and the
7 other sister just works at, you know - I think
8 she works at Walmart, and my mother and my two -
9 the two youngest sisters, they're - but they're
10 all older than me, spend a lot of time with my
11 mother, who's now 90 and - and uses a walker to
12 get around, and helping her around a lot, and
13 I'm planning to live with her when I - if - when
14 I get released. I'm trying to be positive.

15 **PRESIDING COMMISSIONER SHELTON:** There
16 you go. How much contact do you have with your
17 brothers and sisters?

18 **INMATE SUNDBERG:** I think regular
19 contact, mostly through letters, and they don't
20 get up too often, they're kind of spread around
21 the county, a lot of them, so we don't get - we
22 don't do too much visiting, and I don't like to
23 raise huge phone bills since the phones have
24 gotten so expensive, but we keep in regular
25 contact, and then come up -

26 **PRESIDING COMMISSIONER SHELTON:** You
27 write letters -

1 **INMATE SUNDBERG:** - a couple times -

2 **PRESIDING COMMISSIONER SHELTON:** - and

3 stuff?

4 **INMATE SUNDBERG:** Yeah. One or - once or
5 twice a year usually, and I see my youngest son
6 too, for that matter. My oldest son, once he re
7 - reached his age of adult - legal adulthood,
8 pretty much just moved off on his own and, you
9 know, went to live his own life and, you know,
10 forget about the family, which isn't too unusual
11 I think for kids.

12 **PRESIDING COMMISSIONER SHELTON:** Got to
13 find his way.

14 **INMATE SUNDBERG:** Yeah. He's in his late
15 20s now, and my - my youngest -

16 **PRESIDING COMMISSIONER SHELTON:** So you
17 have two -

18 **INMATE SUNDBERG:** - will be -

19 **PRESIDING COMMISSIONER SHELTON:** - sons?

20 **INMATE SUNDBERG:** - 20 - yeah - will be
21 21 next month. He's going to college and
22 working two jobs to put himself through college.

23 **PRESIDING COMMISSIONER SHELTON:** And you
24 have contact with - well, you said your -

25 **INMATE SUNDBERG:** With the youngest.

26 **PRESIDING COMMISSIONER SHELTON:** With the
27 youngest, and your older son is a - all over

1 doing his thing?

2 **INMATE SUNDBERG:** Yeah.

3 **PRESIDING COMMISSIONER SHELTON:** Who
4 comes and visits you here?

5 **INMATE SUNDBERG:** Usually my second-to-
6 the-oldest sister now, and sometimes - that's
7 Joanne, and sometimes my sister Lou, and my
8 sister Mary has also come up, as have a couple
9 of my friends, but my sister Joanne is the one
10 who comes most regularly, usually once or twice
11 a year, and sometimes she'll stop and pick up
12 one of the other members of the family or my
13 son.

14 **PRESIDING COMMISSIONER SHELTON:** Good.
15 Let me see. You graduated in 1975 from Long
16 Beach Polytechnic High School.

17 **INMATE SUNDBERG:** Yes.

18 **PRESIDING COMMISSIONER SHELTON:** You
19 attended college courses at Long Beach City
20 College and Cal State Long Beach for two years.

21 **INMATE SUNDBERG:** Yeah, Long Beach.

22 **PRESIDING COMMISSIONER SHELTON:** Did you
23 get an AA there?

24 **INMATE SUNDBERG:** No. I - I only went
25 one semester at Cal State and three - three or
26 four semesters at Long Beach City College. I
27 didn't earn enough of all the required courses

1 to get an associate degree. I got that when -
2 through the college program here that they used
3 to have from Hartnell College. I also went to
4 Golden West College for some technical courses
5 too, when I was on the street.

6 **PRESIDING COMMISSIONER SHELTON:** You
7 married Robin and you have your two children,
8 one's Nathan and one's Neil. Those are the ones
9 you were just sharing with.

10 **INMATE SUNDBERG:** Yes.

11 **PRESIDING COMMISSIONER SHELTON:** Are you
12 still married?

13 **INMATE SUNDBERG:** Yes.

14 **PRESIDING COMMISSIONER SHELTON:** To
15 Robin?

16 **INMATE SUNDBERG:** Yes.

17 **PRESIDING COMMISSIONER SHELTON:** Okay.
18 What kind of relationship do you have with her?

19 **INMATE SUNDBERG:** Basically none anymore.
20 We haven't spoken or written to each other for a
21 few years, I haven't kept track, so where I get
22 - I guess that would make us separated
23 technically. We were still on - on good terms
24 with each other, but I don't expect to ever
25 resume -

26 **PRESIDING COMMISSIONER SHELTON:** A
27 marriage?

1 **INMATE SUNDBERG:** - an active marriage.

2 **PRESIDING COMMISSIONER SHELTON:** You were
3 employed by AT&T for nine years as a long-
4 distance operator, and you made about 1700
5 dollars a month. It says, "Since this crime
6 occurred, your wife moved to Morro Bay to live
7 with her parents." Is she still there?

8 **INMATE SUNDBERG:** No, and that's been
9 covered in previous hearings, but I don't mind
10 going over it again. She lived with her parents
11 for a little while and so did the kids, and then
12 she left and left the kids with her parents, and
13 so the - and she's gone back and forth between
14 living on her own at various places that I'm not
15 aware of very much about, but in L.A. county
16 somewhere, to the best of my knowledge, and -
17 and with her folks, and the kids lived with her
18 folks for a while and with my brother in Utah
19 for a while and in foster homes for a while.

20 **PRESIDING COMMISSIONER SHELTON:** Your
21 kids lived in foster homes for a while, is that
22 (indiscernible)?

23 **INMATE SUNDBERG:** Yeah. I don't remember
24 - yeah, it was - it was not too long after -
25 after Robin left living with her mother, they
26 went into a foster home situation for a while,
27 and then went to live with my brother and lived

1 with him for a couple of years I think, and then
2 went back to live with the grandparents again,
3 maternal grandparents.

4 **PRESIDING COMMISSIONER SHELTON:** It says
5 here that you experimented with cocaine, LSD and
6 PCP when you were younger.

7 **INMATE SUNDBERG:** Yeah. The -

8 **PRESIDING COMMISSIONER SHELTON:** How old?

9 **INMATE SUNDBERG:** I gave - when I was in
10 high school. I gave the probation officer a
11 list of everything I could think of. He wanted
12 to know everything that I had done, but I think
13 I was less of a partying person than what I've
14 read about governor and our president in their
15 youth.

16 **PRESIDING COMMISSIONER SHELTON:** Okay.
17 You used speed, according to this, a couple of
18 months before the crime occurred.

19 **INMATE SUNDBERG:** I - I told the
20 probation officer that, so I guess I must have.
21 I don't remember much now. Usually the only
22 time that I used uppers were when I was up all
23 night with sick kids or trying to take, you
24 know, extra classes or working overtime, and at
25 that time I wasn't taking any extra classes, so
26 my guess would be it was being up with sick
27 kids.

1 **PRESIDING COMMISSIONER SHELTON:** Also
2 indicates that you were drinking beer every day
3 and you believed it became a problem for you.

4 **INMATE SUNDBERG:** Yeah, I was self-
5 medicating.

6 **PRESIDING COMMISSIONER SHELTON:** How much
7 beer would you say you were drinking every day?

8 **INMATE SUNDBERG:** Probably on most days
9 two to four cans. Sometimes more -

10 **PRESIDING COMMISSIONER SHELTON:** That
11 would be -

12 **INMATE SUNDBERG:** - sometimes less.

13 **PRESIDING COMMISSIONER SHELTON:** - like
14 16-ounce cans, that's -

15 **INMATE SUNDBERG:** Usually. It would
16 vary.

17 **PRESIDING COMMISSIONER SHELTON:** Okay.
18 And it says you drank two 16-ounce cans a beer
19 before the crime occurred. You also indicate
20 here that you had an emotional problem and that
21 your family in general has problems with
22 depression, including your mom and your sisters,
23 I guess.

24 **INMATE SUNDBERG:** And - and one brother,
25 yeah, there's a family history.

26 **PRESIDING COMMISSIONER SHELTON:** Had you
27 ever been treated for depression prior to this

1 incident?

2 **INMATE SUNDBERG:** I hadn't been treated,
3 no. I'd been in some groups that weren't really
4 therapy groups, they were more like what at the
5 time used to be called rap groups in high
6 school. It was run by a woman who had a
7 master's in - I don't remember if it was
8 psychology or something related, or counseling,
9 something like that, but it wasn't really a
10 therapy group, and I've never had actual
11 therapy, no. I had called suicide prevention
12 not too long before that incident, but he
13 couldn't come up with any place to give me a
14 referral to because our problems were related to
15 having a - what they used to call an open
16 marriage, and he couldn't think of any therapist
17 that dealt with that, having experience with
18 that.

19 **PRESIDING COMMISSIONER SHELTON:** So when
20 I was reading your side of the offense, and I'm
21 not going to speak to the offense, but your
22 relationship with the victim's wife, it was -
23 that was a sexual relationship with you, your
24 wife and her?

25 **INMATE SUNDBERG:** Primarily it was me and
26 her, but yes.

27 **PRESIDING COMMISSIONER SHELTON:** Okay. I

1 guess I'm kind of curious. If you knew you had
2 a depress - depression problem why you didn't
3 seek help for it prior to this particular
4 incident?

5 **INMATE SUNDBERG:** I - I - well, like I
6 said, I did call suicide prevention a couple
7 times and they couldn't come up with anybody to
8 refer me to, and I didn't -

9 **PRESIDING COMMISSIONER SHELTON:** Well,
10 what were you asking them? I - I got the
11 impression you were asking them for marriage
12 counseling, or were you asking them -

13 **INMATE SUNDBERG:** Well -

14 **PRESIDING COMMISSIONER SHELTON:** - for -

15 **INMATE SUNDBERG:** - I - I was -

16 **PRESIDING COMMISSIONER SHELTON:** -

17 because your -

18 **INMATE SUNDBERG:** - suicidal over
19 problems -

20 **PRESIDING COMMISSIONER SHELTON:** Okay.

21 **INMATE SUNDBERG:** - with the marriage -

22 **PRESIDING COMMISSIONER SHELTON:** Okay.

23 **INMATE SUNDBERG:** - and extremely
24 depressed over problems with the marriage, and
25 that related to relationships that we had with -
26 with others. I essentially wanted us to go back
27 to have a - a monogamous relationship and my

1 wife wasn't willing to, so I - you know, I had
2 made some efforts but - but obviously not
3 enough.

4 **PRESIDING COMMISSIONER SHELTON:** Yeah.
5 If hindsight were what, 20/20 or whatever.

6 **INMATE SUNDBERG:** Yeah.

7 **PRESIDING COMMISSIONER SHELTON:** All
8 right. Sir, is there anything that I neglected
9 to discuss with you about your social history or
10 anything that you would like to have added in
11 for the record?

12 **INMATE SUNDBERG:** Probably, but I can't
13 think of anything right now.

14 **PRESIDING COMMISSIONER SHELTON:** If you
15 do, just let me know and we'll go back and we'll
16 add it on the record for you.

17 **INMATE SUNDBERG:** Thank you.

18 **PRESIDING COMMISSIONER SHELTON:** All
19 right. We're going to go to Commissioner Keenan
20 now and your post-conviction factors, which
21 means he's going to talk to you about what
22 you've been doing since you've been
23 incarcerated.

24 **DEPUTY COMMISSIONER KEENAN:** Okay. Mr.
25 Sundberg, okay, first of all, I see you have a
26 classi - have a placement score of 19, it was a
27 classification score of zero going back as far

1 as 3/14/95. The last hearing was on 10/28/04.
2 We recommended that you remain disciplinary free
3 and participate in self-help, and you got a one-
4 year denial. You have remained disciplinary
5 free. You have never had a 115. You have had
6 one 128a for grooming standards. That was on
7 5/2/98. Since your last hearing you have been
8 enrolled in Coastline Community College working
9 toward a degree in Computer Science.

10 **INMATE SUNDBERG:** Oh, it's not completely
11 accurate. I was enrolled I think at the time of
12 the last hearing and I haven't taken classes
13 since, and I was hoping to work towards a
14 Computer Science degree but I haven't been able
15 to work anything out with the college to be able
16 to get a Computer Science degree so I'm still
17 trying to, you know, come up with something
18 within a way of doing that but haven't been
19 successful at that.

20 **DEPUTY COMMISSIONER KEENAN:** Okay.

21 **INMATE SUNDBERG:** So I've just been
22 taking - the classes that I took were just -
23 were general classes, things that might satisfy
24 transfer requirements to a four-year degree,
25 that type of thing.

26 **DEPUTY COMMISSIONER KEENAN:** General Ed
27 type of things through Coastline?

1 **INMATE SUNDBERG:** Yeah, like a - a Logic
2 and Critical Thinking course and a Media course,
3 things that satisfy certain requirement areas
4 that I'd never taken before.

5 **DEPUTY COMMISSIONER KEENAN:** Okay.
6 Ultimately though it's -

7 **INMATE SUNDBERG:** Ultimately -

8 **DEPUTY COMMISSIONER KEENAN:** -
9 (indiscernible).

10 **INMATE SUNDBERG:** Ultimately what I want
11 to do is get a Computer Science degree.

12 **DEPUTY COMMISSIONER KEENAN:** Okay. So -
13 it says, "Enrolled -" I'm looking at the post-
14 conviction - the most current post-conviction
15 progress report dated 4/21/06. It says,
16 "Enrolled in Coastline Community College,
17 working toward a degree in Computer Science."

18 **INMATE SUNDBERG:** It should have said
19 hoping to work towards a degree. Yeah. Sorry.

20 **DEPUTY COMMISSIONER KEENAN:** But you are
21 taking things that you think are going to allow
22 you to transfer to a place where you can do
23 that?

24 **INMATE SUNDBERG:** Right. Or satisfy
25 Coastline's requirements if they can figure out
26 a way for me to get the - the Computer Science
27 through distance learning without -

1 **DEPUTY COMMISSIONER KEENAN:** Oh.

2 **INMATE SUNDBERG:** - having - being on the
3 Internet.

4 **DEPUTY COMMISSIONER KEENAN:** Okay. It
5 says you continue to work as a Computer
6 Technician, work supervisor performance reports
7 remain excellent, continues to participate in AA
8 program.

9 **INMATE SUNDBERG:** My - my work - I've
10 since I finished two years in the job and had to
11 transfer out so I'm no a ABE Teacher's Aide
12 since - for about a month roughly.

13 **PRESIDING COMMISSIONER SHELTON:** What is
14 that?

15 **INMATE SUNDBERG:** Adult Basic Education.
16 Essentially it's elementary school. I'm
17 primarily a math tutor and - and homework grader
18 and - but I do whatever she asks me to do too,
19 you know. For instance, she's just assigned me
20 to a couple of inmates that are native Spanish
21 speakers that don't have very much experience
22 with English with - I sit with them when they
23 read aloud and - and help them with words they
24 have trouble pronouncing and - and, you know -
25 or don't know, that type of thing.

26 **DEPUTY COMMISSIONER KEENAN:** Okay. So
27 you've been in AA and it notes some 128b chronos

1 dated 10/4/05, 1/3/06, 4/5/06. Now it says
2 psych treatment: none. Okay.

3 **INMATE SUNDBERG:** Well, I'm - got ongoing
4 Triple CMS and in -

5 **DEPUTY COMMISSIONER KEENAN:** Yeah.

6 **INMATE SUNDBERG:** - a depression group,
7 so -

8 **DEPUTY COMMISSIONER KEENAN:** Yeah, that's
9 what -

10 **INMATE SUNDBERG:** - that's what he
11 probably ought to have put that down, but he's
12 just recently taken over as a - a new counselor,
13 if you're reading the one from Morton.

14 **DEPUTY COMMISSIONER KEENAN:** I am.

15 **INMATE SUNDBERG:** Okay. Yeah.

16 **DEPUTY COMMISSIONER KEENAN:** Prison
17 behavior clear. Other: continues to have
18 excellent behavior patterns. Okay. And that's
19 an addendum to the October '05 report, and in
20 that report it notes in part, under the Post-
21 Conviction Factors section, "continues his full-
22 time assignment working as a Computer Tech -" I
23 know that's outdated at this point, based on
24 what you just said - it says, "- in the Computer
25 Refurbishing Program. Work supervisor's report
26 for this period reflect exceptional grades
27 across the board." Supervisor comments include

1 "great worker, always on time. His pleasant
2 attitude and generous nature have been a very
3 positive and motivating influence in this
4 program. Also noted was a laudatory chrono
5 dated 5/10/04 detailing his commendable efforts
6 as an Education Office Clerk from August '93 to
7 September '93." Are those dates right or -

8 **INMATE SUNDBERG:** I don't think so.

9 **DEPUTY COMMISSIONER KEENAN:** It's looks
10 sort of like an odd jump in this current report
11 to jump back to '93, or is that '03 would you
12 say?

13 **PRESIDING COMMISSIONER SHELTON:** It
14 probably is a typo.

15 **DEPUTY COMMISSIONER KEENAN:** That's what
16 I'm thinking.

17 **INMATE SUNDBERG:** It says August - let me
18 get my reading glasses. Yeah, I think it's a
19 typo.

20 **DEPUTY COMMISSIONER KEENAN:**

21 (indiscernible).

22 **INMATE SUNDBERG:** Yeah, August '93 to
23 September 2003. Okay. Yeah, actually I didn't
24 just have a single -

25 **PRESIDING COMMISSIONER SHELTON:** Okay.

26 **INMATE SUNDBERG:** - clerk job, I've
27 worked at a - a number of different jobs for the

1 Education and Vocation Departments, but always
2 for them during that whole time period so that I
3 could continue, you know, updating things that
4 I've done for them earlier and - and maintaining
5 them.

6 **DEPUTY COMMISSIONER KEENAN:** Okay. Also
7 as I'm going through this, sometimes they'll be
8 like a brief comment or two about a chrono, I
9 may make a little brief comment about it, and if
10 it's a chon - a chrono that you want me to spend
11 more time with, I can go back and look at it and
12 read in more detail if something you think is
13 important to have on the record.

14 **INMATE SUNDBERG:** Okay.

15 **DEPUTY COMMISSIONER KEENAN:** So just let
16 me know. Okay. Therapy and self-help
17 activities. "Sundberg is continuing his studies
18 through Coastline Community College working
19 toward a degree in possibly Computer Science it
20 says." Also noted in the C-File were chronos
21 for completion of the 12-week Anger Management
22 course, 9/15/04, and ongoing participation in
23 CTF's Alcoholics Anonymous group through the
24 first quarter of 2005, 3/15/05 in particular.
25 "Sundberg also states he is continuing his
26 Buddhist meditation studies and his depression
27 management group therapy programs and will try

1 to have updated letters in time for his Board
2 hearing," and I think we do have something that
3 I'll get to shortly. Under Employment in this
4 report it says, "Sundberg has an associate's
5 degree in General Studies plus completed
6 vocational Data Processing program at CTF. In
7 addition, he has several years' experience
8 working as a Certified Electronics Technician in
9 both teaching and employment custodial capacity.
10 Also noted in the Central File were numerous
11 classes from Hartnell College in the Electronics
12 field, and though he does not have a specific
13 job offer, Sundberg is confident he'd be able to
14 provide for his needs if granted a parole date."
15 Okay. And you already mentioned Hartnell. I
16 saw in there you got your AA -

17 **INMATE SUNDBERG:** Yeah. Right.

18 **DEPUTY COMMISSIONER KEENAN:** - from
19 Hartnell.

20 **INMATE SUNDBERG:** Right. And I'm also
21 currently taking a - a group for lifers, a Life
22 Skills group, which I'll be finishing this
23 month, which I have a chrono for if you don't
24 have it in the file.

25 **DEPUTY COMMISSIONER KEENAN:** Hold that
26 thought.

27 **INMATE SUNDBERG:** It's not finished.

1 DEPUTY COMMISSIONER KEENAN: I'll - I'll
2 get to that -

3 INMATE SUNDBERG: Okay.

4 DEPUTY COMMISSIONER KEENAN: - shortly,
5 and if I don't, remind me again. I'm just sort
6 of reading through this report.

7 INMATE SUNDBERG: Okay.

8 DEPUTY COMMISSIONER KEENAN: Under
9 Assessment it says: "Sundberg has been
10 disciplinary free from Reception, has taken
11 advantage of available self-help therapy,
12 educational opportunities and enjoys substantial
13 support from family and friends." All right.
14 Okay. I'm getting back I think to what you were
15 just talking about. I was looking through the
16 C-File and I saw - you - you mentioned under
17 Psych Treatment it should not have said none,
18 and I - and I saw in the C-File there's some
19 notations here. There's a 128c from staff
20 psychiatrist D. Woods January 19 of '06:
21 "Sundberg is an active and insightful
22 participant in my Self-Esteem group. The group
23 meets every week for one hour. Inmate Sundberg
24 shares relevant personal feelings and
25 experiences with the group. His energy and
26 enthusiasm for self-improvement will assist him
27 to be a positive and productive citizen upon his

1 release." There's one from C. Mitchell, LCSW,
2 Licensed Clinical Social Worker, a 128c June 14
3 '05. Okay.

4 "The above-referenced inmate -" that
5 would be you "- has been an active
6 participant in the Depression Management
7 group for several years. The purpose of
8 this group is to assist and encourage
9 participants to address depression. The
10 issue of stress management is also
11 discussed as a factor in depression, as
12 is the role of alcohol and drugs. Mr.
13 Sundberg is open in sharing his own
14 stress and mood issues with group
15 members. He has done his own search - I
16 think is a - into factors that exacerbate
17 depression, has been able to provide
18 copies to the group of handouts that he
19 has kept for several years. In addition
20 to discussing his own issues, he has
21 offered effective advice to group
22 members. This past six months Mr.
23 Sundberg has been providing emotional and
24 physical support to a terminally ill
25 cellmate. A memo from the associate
26 warden recognized Mr. Sundberg in that
27 role. Mr. Sundberg's efforts have

1 allowed the ill person to remain in
2 familiar surroundings as long as
3 possible. Mr. Sundberg has used the
4 group to process frustrating situations
5 and to monitor his own emotional
6 responses to stress and sadness."

7 And - okay. October 5 of '04: "Inmate Sundberg
8 has made a second inquiry about the Lifer -
9 Lifers Group offered through the Mental Health
10 Department." Okay. You were put on hold at
11 that point. September 15 of '04 - well, that
12 immediately preceded your last hearing so I'm
13 not quite if it was discussed so I'll mentioned
14 it. "Commended for participation -" oh, this is
15 from D. Rosskopf, Licensed Clinical Social
16 Worker, 128c, "Commended for his active
17 participation in completion of the 12-week Anger
18 Management course," and that course involved
19 topics such as Personal History, Methods of
20 Dealing with Anger, Ways to Recognize and Avoid
21 Anger, Relaxation Technique - Relaxation
22 Techniques. That was a group discussion,
23 workbooks, role-playing, practical application
24 to aid in anger management. "Inmate Sundberg's
25 participation in this group demonstrates a
26 desire for self-improvement." Also you were a
27 participant in the Impact program. That's

1 signed by I. Gara. That was back in 6/8 of '04.
2 I don't think as I was looking through the past
3 Board Reports that I saw that listed, but it
4 looks like it was a involved program, 13- week
5 Impact Workshop.

6 **INMATE SUNDBERG:** Right.

7 **DEPUTY COMMISSIONER KEENAN:** Designed to
8 provide an opportunity for education and
9 awareness as to the profound negative impact of
10 crime on victims and - okay. Whoops. Okay.
11 And it mentioned AA already, but I see it all
12 throughout your programming, and from what I can
13 tell, you've been involved since 1989.

14 **INMATE SUNDBERG:** I believe that's right,
15 yeah, and periodically I've worked as the
16 secretary or - or co-chairman to a group.

17 **DEPUTY COMMISSIONER KEENAN:** I saw you
18 were the secretary back in I think it was around
19 '90 -

20 **INMATE SUNDBERG:** Uh-huh.

21 **DEPUTY COMMISSIONER KEENAN:** - and vice-
22 chair in 2000 and 2001.

23 **INMATE SUNDBERG:** It sounds about right,
24 and I was - yeah, off and on, you know, it's -

25 **DEPUTY COMMISSIONER KEENAN:** Okay.

26 **INMATE SUNDBERG:** - different AA groups
27 that I've been in because I've had more than

1 one. Originally they just had one and I served
2 as secretary of one for a long time, and - and
3 unfortunately I was in a job at that point where
4 I had a computer, so I was able to help them out
5 with - with computerizing some of their stuff.
6 At that time our computer coordinator here was
7 also the AA coordinator, so I was able to help
8 him set up some data-base stuff for tracking his
9 volunteers that come in and when they need to
10 have their approvals renewed and who was going
11 to what meetings and, you know, being able to -
12 at one time he even had to print out duckets
13 because the assignment office said that they
14 were overworked having to printout all the
15 duckets, so I even managed to figure out a way
16 for them to do that, which was a challenge, but
17 I sure learned a lot from it. Also I don't
18 think that you saw this laudatory chrono -

19 **DEPUTY COMMISSIONER KEENAN:** Life -

20 **INMATE SUNDBERG:** - from my former -

21 **DEPUTY COMMISSIONER KEENAN:** - Life

22 Skills?

23 **INMATE SUNDBERG:** - boss. No, this is
24 from my former boss, and then I've got the Life
25 Skills.

26 **DEPUTY COMMISSIONER KEENAN:** I'd like to
27 see that one too -

1 **INMATE SUNDBERG:** Okay.

2 **DEPUTY COMMISSIONER KEENAN:** - at this
3 point.

4 **INMATE SUNDBERG:** I thought it was in the
5 section of the C-File I was looking at but I - I
6 didn't see it.

7 **DEPUTY COMMISSIONER KEENAN:** Okay. Yeah,
8 this one I just read through.

9 **INMATE SUNDBERG:** Oh, okay.

10 **DEPUTY COMMISSIONER KEENAN:** The Self-
11 Esteem group? And then May 3rd of '06 Mr.
12 Motherwall. It says:

13 "Mr. Sundberg has been working with the
14 vocational Computer Repair classroom
15 students April 6 of '04. On July 26 to
16 30, '04, Mr. Sundberg did participate in
17 helping 20 students with a special
18 project consisting of upgrading AD7
19 computers. These were California schools
20 in the Sacramento area. Mr. Sundberg has
21 always been a dedicated and thoughtful
22 individual when it comes to helping
23 students learn about computers, hardware
24 or software. Mr. Sundberg has helped me
25 tremendously in understanding the Access
26 program I use to track my class - to keep
27 track of my class. Mr. Sundberg is a

1 very knowledgeable person when it comes
2 to computers and computer programs.
3 Thanks for a job well done. Wish I had
4 more workers like him."

5 **PRESIDING COMMISSIONER SHELTON:** Very
6 good.

7 **DEPUTY COMMISSIONER KEENAN:** And you have
8 a Life Skills chrono you said?

9 **INMATE SUNDBERG:** Oh, yeah. I thought
10 you - I - I don't think I see it in there. I
11 may have just missed it.

12 **PRESIDING COMMISSIONER SHELTON:** You can
13 give these back to him now.

14 **INMATE SUNDBERG:** Okay, you wanted Life
15 Skills not the - well, I've got a couple,
16 another one here too that's - these are both
17 pretty old ones though. Did you mention the
18 Stress Management and Anger Control in 2001
19 already? I think you did, didn't you.

20 **PRESIDING COMMISSIONER SHELTON:** The 12-
21 week program? Is that a 12-week one?

22 **INMATE SUNDBERG:** No. No, that was a - a
23 different one, an earlier one. Okay. Here's
24 these two but they're, you know, late '90s and
25 early 2000s, and you already mentioned the
26 Impact.

27 **DEPUTY COMMISSIONER KEENAN:** Yes. Okay.

1 11/2 of '92 - oh, okay. I just might have
2 gotten to this one yet. Okay. Life Skill pro -
3 oh, you know, I think I was about to get to
4 this, but all right. This is from Bruce
5 Bakeman, B-A-K-E-M-A-N, Clinical Psychologist,
6 11/2/92.

7 "This Inmate was an active and successful
8 participant in the Life Skills program.
9 He met in a group with other inmates for
10 one hour per week for ten weeks. Its
11 purpose of this program is to encourage
12 better impulse control, self-
13 understanding, and more effective living.
14 Topics included - I'm sorry - topics
15 discussed included Substance Abuse,
16 Victim Awareness, Overcoming Anger and
17 Aggression, Stress Management, Building
18 Self-Esteem, Forming Life Goals,
19 Improving Problem-Solving Skills, and
20 Reentry, Making a Successful Return to
21 Society."

22 And then Stress Management and Anger Control
23 group April 20 of '01. This is from J. Reed -
24 (End Tape 1 - Side A)

25 (Tape 1 - Side B)

26 **DEPUTY COMMISSIONER KEENAN:** All right.
27 Stress Management and Anger Control group is on

1 a 128c from J. Reed, Clinical Psychologist,
2 dated April 20, '01. "Inmate Sundberg
3 successfully participated in Stress Management
4 and Anger Control Groups. Stress Management
5 skills developed included controlled breathing,
6 guided imagery, and progressive deep muscle
7 relaxation. Also the use of the thought record
8 is taught to aid in increased awareness and
9 control of moods, such as anger, depression and
10 anxiety." Okay. All right.

11 **INMATE SUNDBERG:** Thank you.

12 **DEPUTY COMMISSIONER KEENAN:** All right.
13 All right. Also I saw Group Therapy, Depression
14 Management, Meditation Group, Depression Group,
15 counseling with Dr. Reed - I think that's
16 perhaps the one I read to - no, that's
17 different, I think. The coun - you had
18 counseling -

19 **INMATE SUNDBERG:** Yeah.

20 **DEPUTY COMMISSIONER KEENAN:** - one-on-one
21 with Dr. Reed?

22 **INMATE SUNDBERG:** Yes.

23 **DEPUTY COMMISSIONER KEENAN:** Okay. Life
24 - I actually did have it noted down, Life Skills
25 Program.

26 **INMATE SUNDBERG:** Oh, okay.

27 **DEPUTY COMMISSIONER KEENAN:** All right.

1 All right. Also you had a chrono back in '93
2 for - you - noted for donating five books to the
3 CTF library and forgot about that?

4 **INMATE SUNDBERG:** Yeah. I think after
5 that one when I realized they put it in my file
6 I asked them not to bother putting in the file
7 anymore because it seemed kind of unnecessary.

8 **DEPUTY COMMISSIONER KEENAN:** Okay. It
9 says you were in vocational Drafting. How far
10 along did you get in that?

11 **INMATE SUNDBERG:** Not very. I was
12 basically just waiting to get into Data
13 Processing and - and - but I did get a look at
14 their CAD programs which was nice, but I spent
15 more time stootering tudents [sic] in math than
16 anything else there.

17 **DEPUTY COMMISSIONER KEENAN:** Okay. And
18 you got a laudatory chrono for assistance with
19 the Gavilion -

20 **INMATE SUNDBERG:** Gavilion.

21 **DEPUTY COMMISSIONER KEENAN:** Gavilion,
22 okay, Software program. What was that all
23 about?

24 **INMATE SUNDBERG:** Okay. That was, like I
25 said at that time, the computer coordinator here
26 was, among other things, the AA coordinator. He
27 also was the chairman of the vocational - I

1 . can't remember what it's called - a group of -
2 of - of people usually from the mix within the
3 institution and the community that are
4 supportive of - of the trades that are being
5 taught here. I don't know why I can't think of
6 the name of it. But at any rate, he would bring
7 in outside professionals in the computer
8 industry that were also - a couple of them were
9 regular members of the group, and what we did at
10 that time, Data Processing more than anything
11 taught Programming, so he set up what amounted
12 to an inmate company under their supervision
13 that would build programs for the institution,
14 so through the computer coordinator he would
15 talk to whatever, medical or accounting,
16 education, see what things they needed help with
17 computerizing, and then assign a - a team to
18 work on the program and he - and he would
19 supervise it and check it out, and the other
20 programmers from the outside community would
21 check it out too, and, you know, we actually had
22 programs that were used, you know, in a variety
23 of places. One of them even I think was used
24 through a number of institutions for purchasing
25 and tracking funds that are being spent and that
26 type of stuff, and - and I helped to work on one
27 that was for the pharmacy but it was replaced

1 not too long after the started using it with one
2 that came down from Sacramento so it didn't get
3 too much use.

4 **DEPUTY COMMISSIONER KEENAN:** Okay. Also
5 looking at your education and work history, and
6 I think I've already commented on most of it,
7 but Clerk in the Education Department, I don't
8 know if I mentioned that, and Waste Control,
9 Teacher's Aide in vocational Computer Repair,
10 and voca - yeah, in vocational Computer Repair,
11 and - all right, and just sort of here and there
12 comments about your excellent work, and actually
13 throughout the file. I - I haven't seen
14 anything negative. Is there anything negative I
15 should be aware of? If you recall. I know it
16 goes back aways.

17 **INMATE SUNDBERG:** Yeah.

18 **DEPUTY COMMISSIONER KEENAN:** Anything of
19 concern that you would like to explain away? I
20 mean, you know, I - I didn't - what I saw was
21 positive.

22 **INMATE SUNDBERG:** You know, about the
23 only negative that I can think of was the - the
24 single 128 counseling - I guess it's a
25 counseling chrono, about the - the grooming
26 standards, which was right after they
27 implemented the droom - grooming standards. We

1 were on lockdown so I wasn't shaving and I
2 probably looked about like I do now, and they've
3 removed the grooming standards and I'm growing
4 my beard back again.

5 **DEPUTY COMMISSIONER KEENAN:** Okay. All
6 right. And let's see here. July 29 of '05
7 there is a letter or a memo or something from
8 Hugh McMillan, coordinating teacher for Buddhist
9 Meditation Studies at CTF, and:

10 "To the State of California Parole Board.
11 Subject: Letter of Commendation for Mr.
12 Roger Sundberg. It is our understanding
13 that attendance in the Buddhist
14 Meditation Studies program does not
15 entitle the parolee candidate to a
16 laudatory chrono. Since the subject
17 parolee - or parole candidate has been a
18 faithful attendee and active and serious
19 participant in the program the teachers
20 would like to acknowledge his commitment
21 with a letter of commendation. The
22 purpose of this program is to teach
23 traditional Buddhist meditation and
24 ethical practices. Weekly instruction
25 includes guided meditation practice,
26 lectures on that practice and on Buddhist
27 principles for living an ethical and

1 moral life. Active class discussion on
2 these topics is an important aspect of
3 the teaching. There are also Buddhist
4 texts and periodicals distributed to
5 participants and readings and discussions
6 based on that literature. This program
7 began in January '03 and has meet week -
8 has met weekly unless prohibited by CTF
9 emergency procedures such as lockdowns.
10 The parole candidate has been attending
11 the program regularly since its
12 inception. The same teachers have been
13 involved from the beginning so they have
14 come to know the parole candidate fairly
15 well in the classroom context over the
16 past year. Although the teachers know
17 nothing about the circumstances of Mr.
18 Sundberg's incarceration, based solely on
19 his behavior and attitude in this study
20 program we believe the candidate deserves
21 serious consideration by the Parole
22 Board. Respectfully submitted, Hugh
23 McMillan."

24 Okay. And you've participated in a Children's
25 Walkathon in '95.

26 **INMATE SUNDBERG:** I had forgot.

27 **DEPUTY COMMISSIONER KEENAN:** Okay. It

1 sounds like something you did though?

2 **INMATE SUNDBERG:** It sounds like
3 something I might have participated in in some
4 form. I don't remember walking but it doesn't
5 mean I didn't do it back then.

6 **DEPUTY COMMISSIONER KEENAN:** Okay.

7 **INMATE SUNDBERG:** It's not something that
8 would stick out in my memory as being a big
9 deal.

10 **DEPUTY COMMISSIONER KEENAN:** Okay. Yeah,
11 they had - they had it listed in here somewhere
12 in one of the attached post-conviction progress
13 reports. Okay. All right. Have I missed
14 anything?

15 **INMATE SUNDBERG:** Oh, sure, but I think
16 they've been covered in prior hearings, at least
17 I'm pretty sure they have.

18 **DEPUTY COMMISSIONER KEENAN:** It looks
19 like you've done a lot over time. Is there
20 something you want to highlight? Maybe
21 something that was considered in the past that
22 you think, you know, is worthy of note at, you
23 know, your Subsequent Hearings?

24 **INMATE SUNDBERG:** Not so much individual
25 things but just I think there's what you might
26 call a - I suppose a theme to it, which is
27 basically that I'm trying to help improve things

1 in - you know, in one way, shape or form or
2 another. You know, when there's a problem with
3 something, if I can see a way of trying to
4 improve it and I have, you know, the opportunity
5 to, you know, then I think that that's the right
6 thing to do.

7 **DEPUTY COMMISSIONER KEENAN:** It kind of
8 reminds me of - a lot of these hearings where I
9 - I hear people telling me they want to become a
10 productive member of the soci - of society,
11 right? It sounds like what you're saying is
12 you're being a productive member of this
13 society.

14 **INMATE SUNDBERG:** Well, this is where I
15 am and this is what I can do.

16 **DEPUTY COMMISSIONER KEENAN:** All right.

17 **PRESIDING COMMISSIONER SHELTON:** I think
18 it's a good attitude.

19 **INMATE SUNDBERG:** Well, I was raised with
20 that attitude, you know, my - my family had -
21 that's the - you know, just the way that we
22 were. You know, sometimes when inmates and
23 staff people talk to me or about me because I
24 don't exactly fit in here as the run-of-the-mill
25 criminal, you know, I'll tell them I was warped
26 by - by my early upbringing, you know.

27 **PRESIDING COMMISSIONER SHELTON:** Good

1 response.

2 **DEPUTY COMMISSIONER KEENAN:** Okay. And
3 you have - you've completed the one vocation,
4 the vocational Data Processing program, right?

5 **INMATE SUNDBERG:** Right.

6 **DEPUTY COMMISSIONER KEENAN:** And that's
7 the one where you spend all your time in the
8 whole computer field basically.

9 **INMATE SUNDBERG:** Pretty much, except for
10 working with the Computer Repair where I was a
11 teacher's aide and then a technician.

12 **DEPUTY COMMISSIONER KEENAN:** Okay. All
13 right.

14 **INMATE SUNDBERG:** And I was thinking,
15 I've been debating with myself whether to go
16 through there as a student or not just so that I
17 could have more time to learn stuff because I
18 was still learning stuff when I was a
19 technician, but I was pretty much spending just
20 about my time working and it would be kind of
21 nice just to be a student again for a while,
22 even if I already know most of it.

23 **DEPUTY COMMISSIONER KEENAN:** So your
24 marketable skills are the vocational Data
25 Processing and the Technician field.

26 **INMATE SUNDBERG:** It's all related to
27 computers, yeah.

1 **DEPUTY COMMISSIONER KEENAN:** Okay. All
2 right. Anything else you want to highlight?

3 **INMATE SUNDBERG:** I can't think of
4 anything.

5 **DEPUTY COMMISSIONER KEENAN:** Okay. Focus
6 on the psychological evaluation. The most
7 recent is September 20 of '04 by Dr. S. Stack,
8 S-T-A-C-K, Licensed Psychologist. Okay. In
9 assessing you the doctor talks about basic
10 identifying information, developmental history,
11 educational, notes your high school degree,
12 Associate of Arts degree in General Education.
13 It says here that you told the doctor you spent
14 - and that's at this time - over 12,000 hours
15 doing Data Processing during incarceration
16 period and has significant computer experience.
17 (indiscernible) custom application training and
18 tutoring people. It goes over your family
19 history, psychosexual development and sexual
20 orientation, marital history, military history,
21 employment income history, substance abuse
22 history. It says:

23 "Inmate Sundberg acknowledges abusing
24 alcohol, stating that he used alcohol to
25 'medicate my depression,' as you've
26 already stated here today. He
27 acknowledges that this was a significant

1 problem. He also acknowledged the
2 experimental use of drugs including
3 marijuana and cocaine although he was
4 never addicted. He does attend
5 Alcoholics Anonymous."

6 Psychiatric and medical history is discussed and
7 it goes over what you've already discussed about
8 shooting yourself in the head and the seizure
9 disorder, the depression. It talks about your
10 parole plans, mentioning that part of that would
11 include outpatient - outpatient counseling and
12 in which you are currently researching, and
13 involvement in community meditation and
14 Alcoholics Anonymous meetings. Sound right?

15 **INMATE SUNDBERG:** Uh-huh.

16 **DEPUTY COMMISSIONER KEENAN:** It talks
17 about your current mental status and treatment
18 needs and noting in part intellectual
19 functioning was estimated to be in the above
20 average range.

21 "Currently his symptoms of depression are
22 well controlled, and in particular by
23 medications but also by self-help group
24 participation. He's in the Triple CMS
25 program here at CTF and has been for
26 several years. His judgment appeared to
27 be sound. He showed good insight into

1 his commitment offense."

2 Diagnostic impressions: Axis I, major depressive
3 disorder improved, alcohol abuse and marijuana
4 abuse in institutional remission; Axis II, no
5 contributory personality disorder; Axis V,
6 Global Assessment of Functioning, has you listed
7 as 80, and I have something from the DSM-IV that
8 gives you an explanation to what that means.

9 Okay. You fall within the 71 to 80 range, so
10 you're at the top of that range, and it says:
11 "If symptoms are present, they are transient and
12 expectable reactions to psychosocial stressors,
13 no more than slight impairment in social,
14 occupational or school functioning." Okay. It
15 talks about a review of the life crime. It
16 says:

17 "Inmate Sundberg essentially agrees with
18 the description in his Central File of
19 the commitment offense. He stated that
20 he was extremely stressed at the time of
21 the offense and that he - and that should
22 those conditions ever exist again, he
23 would move out of the area rather than
24 stay near someone who was threatening him
25 and his wife, as the victim did. He
26 stated he now understands that he thought
27 of the victim as less than a human being

1 and he now realizes that was a mistake."
2 Assessment of dangerousness in a controlled
3 setting, your violence potential is estimated to
4 be significantly below the average relative to
5 this Level Two inmate population. "If released
6 to the community, his violence potential is
7 estimated to be no more than the average citizen
8 in the community." The doctor also states:

9 "The most significant risk factor for
10 this inmate which would be a precursor to
11 violence would be finding himself in
12 circumstances of extreme stress. It is
13 believed that he has learned strategies
14 for dealing with that stress in the
15 future and I do not expect that he would
16 ever commit another serious crime like
17 that again."

18 Clinical Observations, Comments and
19 Recommendations:

20 "Inmate Sundberg is competent and
21 responsible for his behavior. He has the
22 capacity to abide by institutional
23 standards and has done so during his
24 incarceration period. Inmate Sundberg
25 does suffer from a psychiatric disorder
26 which is well controlled with
27 medications. I believe he could benefit

1 from psychiatric treatment following his
2 parole. As inmate Sundberg has
3 acknowledged some abuse of alcohol and
4 drugs, I would recommend upon parole
5 abstinence from all illegal drugs and/or
6 alcohol, monitoring for substance abuse,
7 and mandatory attendance at self-help
8 groups such as AA or NA."

9 Is there anything that you would like to say
10 about that report by Dr. Stack?

11 **INMATE SUNDBERG:** I can't think of
12 anything.

13 **DEPUTY COMMISSIONER KEENAN:** Okay. I
14 also saw that there was a prior report back in
15 5/25/2000 by Steven J. Terrini, T-E-R-R-I-N-I,
16 Senior Supervising Psychologist. Both of these
17 are doctors here at the institution.

18 **INMATE SUNDBERG:** Yeah. Terrini was a
19 regular doctor here and he had also been my case
20 manager for some time, and the other doctor was
21 one who was hired specifically to do Board
22 Reports only. That's what she told me, she
23 wasn't - she didn't practice any other work here
24 other than doing just Board Reports.

25 **DEPUTY COMMISSIONER KEENAN:** Okay. He
26 notes under Current Diagnostic Impressions:
27 major depressive disorder in good remission;

1 alcohol abuse and marijuana abuse in
2 institutional remission; no personality
3 disorders, and he had you down as a GAF of 75.
4 It says: "If released to the community, his
5 violence potential is estimated to be no more
6 than the average citizen in the community."
7 Anything you want to say about that report? I
8 don't know if you've had a chance to review it
9 recently.

10 **INMATE SUNDBERG:** Nothing I can think of,
11 thank you.

12 **DEPUTY COMMISSIONER KEENAN:** Okay. I'll
13 turn it back to the chairperson.

14 **PRESIDING COMMISSIONER SHELTON:** All
15 right. Okay. Mr. Sundberg, we are going to
16 talk about your parole plans now, and I have
17 some information in front of me. I need to walk
18 through it with you and have you update anything
19 with me that may have changed. It says here
20 that you would like to parole to your mother's
21 house.

22 **INMATE SUNDBERG:** Correct.

23 **PRESIDING COMMISSIONER SHELTON:** And does
24 she still live in Long Beach?

25 **INMATE SUNDBERG:** Yes.

26 **PRESIDING COMMISSIONER SHELTON:** Okay.
27 And I know you mentioned that she was 90 -

1 **INMATE SUNDBERG:** Yes.

2 **PRESIDING COMMISSIONER SHELTON:** - which
3 I think is outstanding. Who else lives in her
4 house?

5 **INMATE SUNDBERG:** Sometimes one or
6 another of my two sisters that are next closest
7 in age, Lou and Mary, Lou more often, but they
8 don't live there all the time, just
9 periodically. Sometimes they'll live with her
10 and - but more often they try and visit
11 frequently and help her out when they're
12 visiting.

13 **PRESIDING COMMISSIONER SHELTON:** So they
14 live close by though -

15 **INMATE SUNDBERG:** Yeah.

16 **PRESIDING COMMISSIONER SHELTON:** - enough
17 for them for them to do that? And her health is
18 not real good right now. I think you said -

19 **INMATE SUNDBERG:** Well -

20 **PRESIDING COMMISSIONER SHELTON:** - she
21 was in a walker.

22 **INMATE SUNDBERG:** - she doesn't - she
23 doesn't - yeah. She has to use a walker to get
24 around, and her arthri - her arthritis is pretty
25 bad, but she doesn't have anything immediately
26 life threatening, she's just not, you know - she
27 just is old and feels it, mostly I think, I

1 guess.

2 **PRESIDING COMMISSIONER SHELTON:** Let's
3 talk about employment. It's -

4 **INMATE SUNDBERG:** Well, that's, of
5 course, my weak area.

6 **PRESIDING COMMISSIONER SHELTON:** Yeah.

7 **INMATE SUNDBERG:** You know, I don't have
8 a job offering. I do have job skills and I have
9 a friend who's husband works at a company and
10 she's friends with - with the head of the
11 company who says that she can get him to hire me
12 on, if nothing else just as a custodian as a -

13 **PRESIDING COMMISSIONER SHELTON:** I saw
14 that -

15 **INMATE SUNDBERG:** - to get in -

16 **PRESIDING COMMISSIONER SHELTON:** -
17 letter.

18 **INMATE SUNDBERG:** - and - and then in.

19 **PRESIDING COMMISSIONER SHELTON:** Tell me
20 about -

21 **INMATE SUNDBERG:** But that's about the
22 only -

23 **PRESIDING COMMISSIONER SHELTON:** I would
24 agree with you, sir. I think you have a lot of
25 skills. I think you have a lot of employable
26 skills, especially in this day and age, and
27 since I'm probably one of the least computer

1 technical people there are around, I'm impressed
2 with what you're doing. What I don't understand
3 is why we don't have lots of letters in your
4 file for job offers -

5 **INMATE SUNDBERG:** Oh, because no -

6 **PRESIDING COMMISSIONER SHELTON:** -
7 considerations.

8 **INMATE SUNDBERG:** Two reasons. Between
9 the last hearing and this one I haven't sent any
10 more letters out. I've just been collecting
11 information about resources that I would get -
12 gotten them - gotten a - a page of places that -
13 from - at least from the prerelease department
14 here say that they will hire inmates, although
15 some of them I had already written before and I
16 never got any response back from them so I don't
17 know. Maybe you have to go there in person to
18 get a response, and again, you know, the various
19 places that I've written to, you know, is noted
20 however many I had on one list at the last
21 hearing, I forget what it was, 40 or 50 or
22 something like that. The only responses that I
23 got back were from the Department of Corrections
24 and the State of California that told me they do
25 hire ex-felons and to check their website when I
26 get out.

27 **PRESIDING COMMISSIONER SHELTON:** That's

1 kind of frustrating, isn't it?

2 **INMATE SUNDBERG:** Yeah, it is. It is. I
3 just, you know - when you do computer
4 programming you have to learn to get a thick
5 skin because you get all these errors one after
6 another after another that you have to track
7 down and figure out, and I'm trying -

8 **PRESIDING COMMISSIONER SHELTON:** Real
9 life complications -

10 **INMATE SUNDBERG:** - to keep that same
11 attitude with this, that I don't -

12 **PRESIDING COMMISSIONER SHELTON:** Just
13 consider an error -

14 **INMATE SUNDBERG:** - expect to go -

15 **PRESIDING COMMISSIONER SHELTON:** - letter
16 or something.

17 **INMATE SUNDBERG:** Yeah. I expected not
18 to - anything great to happen immediately but if
19 you're persistent enough something will happen,
20 but it does get real discouraging, which is why
21 I haven't been sending out more letters
22 recently, I've just been collecting more
23 information from people about places that
24 supposedly hire inmates and about getting state
25 or federal bonding of inmates, that type of
26 stuff, just trying to get information from
27 networking with other guys in here that are

1 doing the same thing.

2 **PRESIDING COMMISSIONER SHELTON:** That's a
3 good idea. We have some letters, support
4 letters in your file. I know that these are
5 written back in October of 2005 but I anticipate
6 that you were supposed to have a hearing a
7 little sooner than this so these are acceptable
8 letters, I just want to let you know. This
9 first one is from your mom. "I don't know what
10 else to say except I've missed him for many
11 years," and would like to see you paroled more
12 than anything in the world, and you're always
13 welcome in her home. The next letter is from
14 your sister Joanne. She believes that you are
15 different from the average inmate. She talks
16 about your computer work, your weekly meetings,
17 your vocational Data Processing certificate,
18 your AA degree. She indicated you graduated
19 magna cum laude.

20 **INMATE SUNDBERG:** Yes.

21 **PRESIDING COMMISSIONER SHELTON:**
22 Congratulations.

23 **INMATE SUNDBERG:** Thank you.

24 **PRESIDING COMMISSIONER SHELTON:** Distance
25 learning class, I think you mentioned that, the
26 Logic and Critical Thinking class from
27 Coastline. She mentions the other groups that

1 you have participated in and activities that you
2 have accomplished. She finds you to be a warm,
3 loving brother, son and father, and many family
4 members would provide various means of support,
5 "sisters in California will visit him and help
6 provide emotional and spiritual support." This
7 sister lives in Arizona evidently -

8 **INMATE SUNDBERG:** Yes.

9 **PRESIDING COMMISSIONER SHELTON:** - with
10 her husband, and they could be able to provide
11 some help financially. This letter is from
12 Patty. Is that a sister?

13 **INMATE SUNDBERG:** No, a friend. Someone
14 I've known a long time, since -

15 **PRESIDING COMMISSIONER SHELTON:** She said
16 she's you're her best friend's younger brother.

17 **INMATE SUNDBERG:** Yes.

18 **PRESIDING COMMISSIONER SHELTON:** So she
19 is a friend to one of your sisters, I would
20 assume?

21 **INMATE SUNDBERG:** Yes.

22 **PRESIDING COMMISSIONER SHELTON:** This is
23 the one you were telling us about that has
24 potentially a job available for you.

25 **INMATE SUNDBERG:** Right.

26 **PRESIDING COMMISSIONER SHELTON:** Her
27 husband owns a small security system and then

1 use computer programmers, they have employed
2 murderers - okay - who have paid their debt. If
3 the position of janitor is the only position
4 open, then she said that you would take that
5 until an appropriate job was open, and that's
6 what you indicated before.

7 **INMATE SUNDBERG:** Yeah.

8 **PRESIDING COMMISSIONER SHELTON:** Patty
9 Romney, Ronnie?

10 **INMATE SUNDBERG:** Yes.

11 **PRESIDING COMMISSIONER SHELTON:** Well,
12 that's the same lady. This is a duplicate
13 letter then from the year before of support.
14 Lou Sundberg. This is your sister?

15 **INMATE SUNDBERG:** Right.

16 **PRESIDING COMMISSIONER SHELTON:** She said
17 that she would share an apartment with you.
18 Where does she live?

19 **INMATE SUNDBERG:** I believe she's in Long
20 Beach. I'm not sure if - because she's -
21 sometimes she stays with my mother in Long Beach
22 and sometimes she's in a separate apartment, and
23 I'm - I'm pretty sure the apartment's in either
24 in Long Beach or one of the very close
25 surrounding cities.

26 **PRESIDING COMMISSIONER SHELTON:** So
27 obviously that's a support letter. That's all I

1 have here. Do you have any other that you're
2 aware of that I haven't indicated?

3 **INMATE SUNDBERG:** I think that there was
4 one from my son Neil that - it actually should
5 have gone into the last one but it didn't to my
6 knowledge. Yeah. That's the only one that I
7 can think of is the one from my son Neil.

8 **PRESIDING COMMISSIONER SHELTON:** Well,
9 let me enter that in and I'll give it back to
10 you. All right. This was done in '03 from your
11 son Neil, and three years ago -

12 **INMATE SUNDBERG:** That's -

13 **PRESIDING COMMISSIONER SHELTON:** - about
14 this time he was 18, so he's 21, as you had
15 indicated. Is he still at Questa College?

16 **INMATE SUNDBERG:** To the best of my
17 knowledge that's the college he's still
18 attending.

19 **PRESIDING COMMISSIONER SHELTON:** Talks
20 about his work and his college. "I'm a good
21 student and a hard worker." I like this: "I am
22 caring, charismatic and confident person."

23 **INMATE SUNDBERG:** He is. He's a - he's a
24 good kid.

25 **PRESIDING COMMISSIONER SHELTON:** It
26 sounds like he would be charismatic even if he
27 knows what the words means, you know. It's a -

1 that's a big word for a young boy, that's cool.
2 Highly motivated. He wants to see you home. He
3 wants for you to be able to play a more active
4 part in his life. He holds the biggest place in
5 my heart and without him, I'm missing the
6 biggest piece.

7 **INMATE SUNDBERG:** He is -

8 **PRESIDING COMMISSIONER SHELTON:** Very
9 nice letter.

10 **INMATE SUNDBERG:** He's a good boy. He
11 told me an interesting story too. He - he used
12 to come up on family visits back before they
13 took family visits away from lifers, and so, you
14 know, I kept him informed in what I was doing
15 when I was, you know, taking college classes
16 and, you know, learning stuff about computers
17 and stuff, and he told me that, you know, since
18 I was the only person in prison that, you know,
19 he knew of, it sort of gave him that impression
20 that - that - that was the impression of
21 prisoners that he had was that, you know,
22 they're - they're doing these things to - you
23 know, to continue learning and to improve
24 themselves, and then he went to I guess it was a
25 Scared Straight meeting or something like that
26 and they have, you know, a bunch of gang members
27 there and, you know - you know, most of which

1 were, you know, semi-literate and - and he said
2 he was just shocked by the whole thing because
3 it was so entirely different -

4 **PRESIDING COMMISSIONER SHELTON:** Than -

5 **INMATE SUNDBERG:** - you know -

6 **PRESIDING COMMISSIONER SHELTON:** - in his
7 mind?

8 **INMATE SUNDBERG:** Yeah, than -

9 **PRESIDING COMMISSIONER SHELTON:** Yeah.
10 His perception of the life.

11 **INMATE SUNDBERG:** Yeah.

12 **PRESIDING COMMISSIONER SHELTON:** So did
13 he learn something out of that?

14 **INMATE SUNDBERG:** Yeah. He - you know,
15 and I told him, "Well, yeah, don't think that
16 prison is - is anything good, you know, you - if
17 you struggle you can get something out of it but
18 it's - you know, it's not - it's not worth it
19 for - you know, even when they used to have the
20 college program, it's not worth going to prison
21 just to get a - a college degree, you know.
22 It's - it's better to work two jobs and go to
23 school.

24 **PRESIDING COMMISSIONER SHELTON:** Yeah.
25 Good advice, Dad.

26 **INMATE SUNDBERG:** Yeah.

27 **PRESIDING COMMISSIONER SHELTON:** All

1 right. We also have to send out 3042 Notices to
2 agencies that are interested in your situation.
3 As you know, there is a representative from the
4 Los Angeles County District Attorney's Office
5 here who will be speaking shortly. We also
6 received a letter from the Los Angeles County
7 Sheriff's Department with regard to the issue of
8 your release for parole and I need to enter it
9 into the record.

10 "On the night of May 7th, 1987, inmate
11 Roger Sundberg was at his apartment in
12 the city of Lakewood when he observed his
13 next-door neighbor, Steven Somers, arrive
14 home. Sundberg had a longstanding
15 dispute with Somers arising from the
16 marital problems between Somers and
17 Somers' wife Pamela. Sundberg
18 sympathized with Pamela and did not
19 approve of Somers being at the location
20 in violation of the restraining order
21 imposed upon him and the recent
22 reconciliation. Sundberg suffered severe
23 depression and made several prior threats
24 of suicide. He was also hypoglycemic
25 despite which drank several beers that
26 night. Over the course of the next few
27 hours Sundberg ranted to his own wife

1 about Somers' presence next-door.
2 Shortly before 1 a.m. on May 8th, 1987,
3 Sundberg suddenly declared, 'I've had
4 enough.' He stated he was going to cash
5 in his stamps and as long as he was going
6 to, he was going to take Somers with him.
7 Sundberg armed himself with a hunting
8 knife, a .38 caliber revolver and extra
9 ammunition. He then went next-door where
10 he found Somers working in his garage.
11 Sundberg attacked Somers, shooting him at
12 least once. Somers struggled with him
13 over the gun, causing Sundberg to shoot
14 himself in the thigh and grazed himself
15 across the side of the head. During this
16 time Somers shouted for help. A neighbor
17 interrupted the incident but fled when
18 Sundberg pointed the gun at him. Somers'
19 wife and son also came out into the
20 garage. Upon seeing Somers covered with
21 blood and Sundberg armed with the
22 revolver, they retreated back into the
23 house to call the police. Moments later
24 Somers entered the house followed by
25 Sundberg, who had now reloaded the
26 revolver. Sundberg pursued him into a
27 bathroom, striking him several times in

1 the head with the gun. Somers' 11-year-
2 old son also attempted to intervene by
3 striking Sundberg with a plastic bat.
4 Sundberg then slammed the bathroom door
5 closed and knocked Somers backward into
6 the tub. As Somers pled for his life,
7 Sundberg declared, 'I've been waiting to
8 do this for a long time,' and shot him
9 three times in the head. Sundberg fled
10 the location and broke into a neighbor's
11 apartment. Responding deputies ordered
12 him out but upon coming outside, Sundberg
13 refused to surrender. He was taken into
14 custody with the assistance of a
15 sheriff's canine. Following Sundberg's
16 arrest, a search of his apartment
17 revealed an economics book and several
18 .35 millimeter film canisters and a cloth
19 bag inside his bedroom. Pages of the
20 book had been cut out in the shape of a
21 gun. The film canisters contained life
22 .38 caliber ammunition. Sundberg's wife
23 related that the gun was usually kept
24 hidden in the book on a shelf. She
25 stated, however, that the bag in which
26 these items were found was the same bag
27 that her husband carried to their nine-

1 year-old son's school play on the evening
2 prior to the murder. It is the opinion
3 of this department that parole of inmate
4 Sundberg is inappropriate and should be
5 denied."

6 All right. At this time -

7 **ATTORNEY RUTLEDGE:** Commissioner,
8 regarding that letter, could we make one
9 correction?

10 **PRESIDING COMMISSIONER SHELTON:**

11 Certainly. As you know -

12 **ATTORNEY RUTLEDGE:** With -

13 **PRESIDING COMMISSIONER SHELTON:** - these
14 are sometimes not accurate.

15 **ATTORNEY RUTLEDGE:** And - and that's why
16 I bring it up. One of the inaccuracies is that
17 my client shot himself in the thigh. That never
18 did happen.

19 **PRESIDING COMMISSIONER SHELTON:** Okay.

20 **ATTORNEY RUTLEDGE:** That's been related
21 in some other documents as well, but that's -

22 **PRESIDING COMMISSIONER SHELTON:** It
23 didn't -

24 **ATTORNEY RUTLEDGE:** - (indiscernible) -

25 **PRESIDING COMMISSIONER SHELTON:** - come
26 up today either.

27 **ATTORNEY RUTLEDGE:** So -

1 **PRESIDING COMMISSIONER SHELTON:** Are
2 there any other corrections at the moment?

3 **INMATE SUNDBERG:** Nothing of any real
4 major importance that I can think of without
5 rehashing -

6 **PRESIDING COMMISSIONER SHELTON:** The
7 whole deal.

8 **INMATE SUNDBERG:** The whole deal, yeah,
9 which I've -

10 **PRESIDING COMMISSIONER SHELTON:** All
11 right.

12 **INMATE SUNDBERG:** - done before.

13 **PRESIDING COMMISSIONER SHELTON:** Thank
14 you. I appreciate it. Now we are moving into
15 the portion of the hearing where we have an
16 opportunity to ask you questions. We will not
17 discuss the offense with you, but the
18 commissioner and I can ask you questions, and
19 the deputy D.A. can, as well as your own
20 attorney, and I have some questions -

21 **INMATE SUNDBERG:** Okay.

22 **PRESIDING COMMISSIONER SHELTON:** - which
23 I wrote down. You have indicated that you
24 believe alcohol played a portion into this
25 offense and you are on and have been
26 participating in AA. What have you done with
27 regards to making any parole plans regarding AA?

1 **INMATE SUNDBERG:** Oh. One of the AA
2 sponsors here says that he has a book with
3 listings of various different places. Now I
4 think the book is probably old but I'll borrow
5 it from him and copy down the areas in - in Long
6 Beach, you know, if I get a date, and I'm also
7 going to have my sister Joanne and/or my sister
8 Diane log on to the AA website which the AA
9 volunteers that come here say has lists of - of
10 places that meetings are held at.

11 **PRESIDING COMMISSIONER SHELTON:** I'll be
12 real frank with you. It's one of my concerns.
13 Obviously you're an extraordinarily bright man
14 and you are very talented. A lot of people when
15 they get released out on parole who have been on
16 medication that control, for example for you,
17 seizures or depression, here you're - you're
18 given the medication, you take it when you're
19 told to take it. What guarantee can you give me
20 that if you go outside these doors you're going
21 to continue on that medication?

22 **INMATE SUNDBERG:** Well, the guarantee is
23 what I face if I don't, you know. Seizures are
24 not something that somebody wants to have, if
25 you - that - that feeling and loss of control
26 and experience is just not something that you
27 want to go through if you can help it, and the

1 same thing goes with - with the bad depression.
2 I mean when you're compulsively suicidal to
3 where - I've - I've heard one speaker on
4 depression say that it's like the second
5 greatest cause of pain - pain of any illness
6 there is, and I forget what he said the first
7 was, maybe arthritis. When you're experiencing
8 that, you would do a hell of a lot to keep from
9 experiencing that again to the point especially
10 to where you reach the point where actually do
11 try and commit suicide just because anything is
12 better than the continued pain of the
13 depression.

14 **PRESIDING COMMISSIONER SHELTON:** How many
15 times did you try to commit suicide in your
16 lifetime?

17 **INMATE SUNDBERG:** I only shot myself
18 once, but at least two or three times I got as
19 far as putting the gun to my head and once
20 taking an - an overdose.

21 **PRESIDING COMMISSIONER SHELTON:** And
22 that's why my question early is why did not seek
23 assistance and there's - do you have anything in
24 your parole plans - I know that Dr. Stack
25 recommended the ongoing use of psychiatric
26 treatment. Do you have anybody, any doctor,
27 psychiatrist, lined up that you could

1 potentially participate? He felt you needed to
2 participate in groups as well as in ther -
3 ongoing therapy.

4 **INMATE SUNDBERG:** She.

5 **PRESIDING COMMISSIONER SHELTON:** She.
6 I'm sorry.

7 **INMATE SUNDBERG:** That's okay. No. The
8 one special thing that I haven't been able to
9 find that I would really like to get would be
10 something that would continue my depression
11 support group.

12 **PRESIDING COMMISSIONER SHELTON:** I know.
13 I got the feeling that those were really -

14 **INMATE SUNDBERG:** And -

15 **PRESIDING COMMISSIONER SHELTON:** -
16 important to you.

17 **INMATE SUNDBERG:** - I have gotten them,
18 addresses of a couple of organizations that deal
19 with depression out of one of the books that I
20 read on it but I haven't written them yet to see
21 - what I'm going to do is try and write them,
22 and I hadn't thought of it before, but I could
23 probably have my sister check on the web to - I
24 should've thought of that before - to see if
25 they've got any listings in that area, but that
26 - that's the one that I really don't have
27 anything for. Other than that, I actually saw a

1 - some information about the parole department
2 that says that they provide some of those
3 services, and I know that the County Mental
4 Health in L.A. also provides some of those types
5 of services.

6 **PRESIDING COMMISSIONER SHELTON:** Probably
7 with an extraordinarily long waiting list.

8 **INMATE SUNDBERG:** That could be. That
9 could be.

10 **PRESIDING COMMISSIONER SHELTON:** What
11 else was I going to ask you? I think those were
12 my only questions at the moment.

13 **INMATE SUNDBERG:** Okay, yeah. One of the
14 - letter from the Parole and Community Services
15 Division says that it doesn't specifically
16 address - I thought it addressed psychiatric
17 specifically but I don't see it here right now,
18 but it talk - it says, "P&CSD also provides
19 services to homeless parolees through
20 residential" etcetera list - and it says, "This
21 community-based program provides lodging, meals,
22 individual and group counseling, substance abuse
23 counseling, parenting skills training, money
24 management, life skills training, and medical
25 referrals." So I figure if they can do medical
26 referrals they can probably do psychiatric
27 referrals too. And I - I read something but I

1 can't seem to find where it is right here, about
2 them providing medications for psychiatric
3 problems too, but I don't think I brought that
4 paper with me.

5 **PRESIDING COMMISSIONER SHELTON:** Do you
6 know -

7 **INMATE SUNDBERG:** Oh, that was - it might
8 have been Employment Development Department too.
9 Do I know?

10 **PRESIDING COMMISSIONER SHELTON:** Let me
11 ask you this, because I don't know the answer.
12 Would you possibly be eligible for SSI based
13 upon your diagnosis of depression as well as you
14 seizure disorder?

15 **INMATE SUNDBERG:** I might.

16 **PRESIDING COMMISSIONER SHELTON:** I don't
17 know how -

18 **INMATE SUNDBERG:** I really hadn't
19 considered that because that's not what I want
20 to do.

21 **PRESIDING COMMISSIONER SHELTON:** No, I
22 understand.

23 **INMATE SUNDBERG:** Yeah.

24 **PRESIDING COMMISSIONER SHELTON:** But I
25 mean as a -

26 **INMATE SUNDBERG:** As something to help.

27 **PRESIDING COMMISSIONER SHELTON:** Well,

1 what I'm going to suggest is - is this, and
2 maybe I'm putting the cart before the horse and
3 people probably are sick of me saying this here,
4 but I believe in not putting all your eggs in
5 one basket and -

6 **INMATE SUNDBERG:** Good advice.

7 **PRESIDING COMMISSIONER SHELTON:** - to try
8 to shore up as many alternatives for you in
9 terms of resources so if A doesn't pan out you
10 got plan B. If plan B doesn't pan out you got
11 plan C.

12 **INMATE SUNDBERG:** Right.

13 **PRESIDING COMMISSIONER SHELTON:** But I'm
14 looking at those thinking you may have
15 difficulty getting a driver's license with your
16 seizure disorder.

17 **INMATE SUNDBERG:** Hmm.

18 **PRESIDING COMMISSIONER SHELTON:** And so
19 you might need to take a look at, even though it
20 appears to be under control with medication,
21 people may not want to, you know -

22 **INMATE SUNDBERG:** May not want to risk
23 it.

24 **PRESIDING COMMISSIONER SHELTON:** Yeah.
25 May not want to risk that there might be a
26 chance that one day it doesn't work under
27 medication. So you would have to look at

1 alternatives for transportation issues. That
2 might be part of when you're structuring your
3 plans to make sure you know how you're going to
4 get to and from work with this. So I'm just -
5 I'm trying to get you to think outside the box a
6 little bit here and look at those kinds of
7 things as well. As well, my other suggestion
8 would be - then I'll let somebody else talk
9 besides me - when it comes to residence, God
10 forbid anything happen to your mom soon -

11 **INMATE SUNDBERG:** Well, my - my sister
12 Lou has also said that I can stay with her.

13 **PRESIDING COMMISSIONER SHELTON:** Right.

14 **INMATE SUNDBERG:** And - well, so have my
15 brother and my -

16 **PRESIDING COMMISSIONER SHELTON:** Okay.

17 **INMATE SUNDBERG:** - my sister Joanne, but
18 they're all out of state, so that I have would
19 have to arrange -

20 **PRESIDING COMMISSIONER SHELTON:** And -

21 **INMATE SUNDBERG:** - all of that stuff.

22 **PRESIDING COMMISSIONER SHELTON:** Yeah.

23 And one of my recommendations would be too,
24 based on your medical issues, is taking a look
25 at transitional housing, and transitional
26 housing programs they provide you with resources
27 such as transportation, employment search and

1 groups, counseling groups with that, and they
2 have the ability to help put you in touch with
3 resources that may be difficult for you to
4 locate sitting in here.

5 **INMATE SUNDBERG:** Right.

6 **PRESIDING COMMISSIONER SHELTON:** Just
7 consider that somewhere in the back of your head

8 -

9 **INMATE SUNDBERG:** Yeah.

10 **PRESIDING COMMISSIONER SHELTON:** - as an

11 -

12 **INMATE SUNDBERG:** Yeah.

13 **PRESIDING COMMISSIONER SHELTON:** - as an
14 alternative.

15 **INMATE SUNDBERG:** Yeah. Yeah, I know. I
16 thought about - when I know they do paroles to
17 halfway houses, but most of those, the ones that
18 I've look into, you're not eligible for if you
19 have that type of medical or psychiatric
20 problems.

21 **PRESIDING COMMISSIONER SHELTON:** You
22 might with transitional housing.

23 **INMATE SUNDBERG:** You might with
24 transitional.

25 **PRESIDING COMMISSIONER SHELTON:** Because
26 transitional's a tad bit different that halfway
27 houses.

1 **INMATE SUNDBERG:** Right.

2 **PRESIDING COMMISSIONER SHELTON:** I think
3 transitional is more of a -

4 **INMATE SUNDBERG:** It's - it's similar to
5 what I was just reading from -

6 **PRESIDING COMMISSIONER SHELTON:** It's
7 more of a helping -

8 **INMATE SUNDBERG:** - from the health
9 department.

10 **PRESIDING COMMISSIONER SHELTON:** -
11 helping place. Halfway is kind of like you go
12 there and, you know, it's -

13 **INMATE SUNDBERG:** Right. And that's
14 good. Yeah, I've actually got a whole list of
15 places that do that that I've collected in my
16 resource -

17 **PRESIDING COMMISSIONER SHELTON:** It just
18 might -

19 **INMATE SUNDBERG:** - that I've been
20 collecting.

21 **PRESIDING COMMISSIONER SHELTON:** - just
22 give you a little bit of something to look at.

23 **INMATE SUNDBERG:** Right.

24 **PRESIDING COMMISSIONER SHELTON:** All
25 right. Commissioner, do you have any questions?

26 **DEPUTY COMMISSIONER KEENAN:** I do have
27 some questions.

1 PRESIDING COMMISSIONER SHELTON: Okay.

2 Change the tape in a second?

3 DEPUTY COMMISSIONER KEENAN: We all have

4 to -

5 PRESIDING COMMISSIONER SHELTON:

6 (indiscernible).

7 DEPUTY COMMISSIONER KEENAN: - change the

8 tape and I have somebody - somebody's looking

9 for some extra tapes right now, so at any rate -

10 PRESIDING COMMISSIONER SHELTON: Tapes.

11 DEPUTY COMMISSIONER KEENAN: Do you have

12 - do you have ones from the stips that you did

13 (indiscernible)? Well, let's go off record and

14 -

15 PRESIDING COMMISSIONER SHELTON: Take a

16 recess.

17 DEPUTY COMMISSIONER KEENAN: Yeah.

18 PRESIDING COMMISSIONER SHELTON: It's

19 ele -

20 (Off the record)

21 DEPUTY COMMISSIONER KEENAN: Back on

22 record, Tape 2, Side 1. All parties previously

23 identified are present. Okay. Yes, I did have

24 a couple of questions, and just to follow-up on

25 that, and I'm not - not sure I understood this.

26 You - you plan to stay with your mother.

27 INMATE SUNDBERG: Correct, or my sister

1 as an alternate.

2 **DEPUTY COMMISSIONER KEENAN:** Okay.

3 **INMATE SUNDBERG:** My sister, Lou.

4 **DEPUTY COMMISSIONER KEENAN:** And - and
5 where she at, what city?

6 **INMATE SUNDBERG:** I believe she's in Long
7 Beach. She's in L.A. County at any rate. She
8 said that she wrote a letter to the Parole
9 Department stating that but I didn't -

10 **PRESIDING COMMISSIONER SHELTON:** I did -

11 **INMATE SUNDBERG:** - hear that one.

12 **PRESIDING COMMISSIONER SHELTON:** I did
13 review a statement from his sister. It said -
14 remember the one that she - you could share her
15 apartment with her?

16 **DEPUTY COMMISSIONER KEENAN:** Oh, right,
17 right. You're right.

18 **INMATE SUNDBERG:** Okay. Okay.

19 **DEPUTY COMMISSIONER KEENAN:** Read that.
20 Thank you. And also at the time of the
21 commitment offense you were not taking
22 medication?

23 **INMATE SUNDBERG:** Correct.

24 **DEPUTY COMMISSIONER KEENAN:** The first
25 time you took it was when you were in the
26 institution?

27 **INMATE SUNDBERG:** Yeah, when I was in the

1 county jail after I had been sentenced, I went
2 to see the psychiatrist there to start taking
3 antidepressants.

4 **DEPUTY COMMISSIONER KEENAN:** All right.
5 And I have another question - well, actually,
6 let me back up. Before you were, you know, in
7 prison and apart from the commitment offense,
8 would you consider yourself a functional guy, I
9 mean able to make your way in the world and earn
10 a living, support yourself?

11 **INMATE SUNDBERG:** Yeah.

12 **DEPUTY COMMISSIONER KEENAN:** Other than
13 that -

14 **INMATE SUNDBERG:** Things were - were
15 sometimes a struggle, but I'd managed to, you
16 know, feed and house my family for ten years
17 roughly.

18 **DEPUTY COMMISSIONER KEENAN:** Okay.

19 **INMATE SUNDBERG:** You know, since we had
20 our first child born.

21 **DEPUTY COMMISSIONER KEENAN:** Okay.

22 **INMATE SUNDBERG:** Maintain, you know, a
23 steady job with a fairly conservative company
24 that you have to be, you know, pretty adaptable
25 to - you know, big business to work for.

26 **DEPUTY COMMISSIONER KEENAN:** Okay. And
27 that was sort of my impressions as I - as we

1 went through this that you were functional in
2 that way in the community, and I see that
3 similarly you're functional here. You know,
4 you're able to get things done. You know, you
5 actually - you seem organized. You're getting
6 into programs, you seem to be goal directed,
7 you're participating in therapy and you're doing
8 the computer work and, you know, building
9 skills, building education, you're functional
10 here as well, and - and that's great, it's good
11 to know that you're going to be functional when
12 you're on the outside, but when you were on the
13 outside you were functional and you committed
14 this crime and so, for me, the fact that you
15 achieve things while you're here doesn't tell
16 the whole story. My concern, and it's - I don't
17 know if it's really so much a question but I'll
18 just sort of state a concern and give you a
19 chance to talk about it, and if it's easier, you
20 can just talk about it during your closing
21 comments, you'll have a chance to do that if
22 you'd like to, and that'll give a chance to
23 think about it. And also I should note, I know
24 you don't want to talk about the commitment
25 offense and - and that's perfectly fine, and so
26 to the extent to answer the question or - or to
27 address the concern you have to get into that,

1 just let me know, "Hey, I don't want to get into
2 that," you know, or maybe answer as best you
3 can, but my concern is when I look at this, I
4 wonder - this is a serious commitment offense,
5 and I look at it and, you know, you read the
6 facts and it's - it's a heavy scene, you know,
7 it's - it's a very serious crime, and I wonder,
8 I look at that, I go: what kind of a guy could
9 do something like that, you know, and I wonder,
10 as I listen to you, do you have insight into who
11 you were deep down inside, at the core, you
12 know? Do you know, you know, what you were all
13 about back then? Do you have a good handle on
14 how you could do something like that? And what
15 you've done in the institution, has it really
16 addressed those issues? Has there been a
17 significant change? Are you - are you a
18 different kind of guy? Are - or are you the
19 same kind of guy deep down that in the right set
20 of circumstances could do something like that
21 again? You know, I know that you've worked hard
22 for personal change, you know, for growth, but
23 I'm just wondering, the old Mr. Sundberg, the
24 guy who committed that - that commitment
25 offense, that part of you, is that dead and
26 buried -

27 **INMATE SUNDBERG:** Uh-huh.

1 **DEPUTY COMMISSIONER KEENAN:** - has that
2 been fully addressed? I know that sits - that's
3 not a very concise question but it's just a
4 concern I have.

5 **INMATE SUNDBERG:** Well, yeah, and it's -
6 it's a pretty legitimate concern too I think,
7 and it's - it's - it's certainly one that I've,
8 you know, thought of myself and talked to, you
9 know, shrinks about, and of course, you know,
10 talking to counselors is - is part of what's
11 important because - well, I - anyone has the
12 po - that potential with enough wrong
13 circumstances, and part of the key is learning
14 what those circumstances are, learning what your
15 weaknesses are and not letting things exac -
16 become exacerbated or - or too much to that
17 extent. Okay, I had a - a tendency to just go
18 with whatever I had to and just, you know,
19 endure whatever had to be endured, you know,
20 just be a stoic and, you know, bite the bullet
21 and keep going until, you know, I couldn't
22 anymore, and so that's one of the things that
23 I've learned, and that's, you know, one reason
24 why I've - I've made a point of, you know,
25 keeping trying to get, you know, counselors that
26 I can talk to and a support group so that I
27 don't do that again, because I do - that is -

1 you know, a tendency is to, you know, I tend to
2 take on responsibilities when I see things - you
3 know, when I see somebody that needs help or
4 some, you know - my tendency, you know, from the
5 way that I'm brought up is to try and - and take
6 that on, and you can't take everything on, and
7 sometimes it's not appropriate for you to take
8 something on, sometimes it's better to, you
9 know, direct it to somebody else or let someone
10 work out their own problems, you know, as they
11 have to work it out, and it's - even if - even
12 if it hurts you to see it happening. So it's -
13 I think it's - it's possible with anybody, but I
14 think it's less possible for me at this point
15 than most people because I know what can happen
16 and I know what has happened and I think that I
17 can pretty much steer clear and compensate as
18 need be, you know, for various ways that I've
19 learned to maintain stress, you know,
20 particularly doing the meditation, although you
21 learn - there's a lot of things in common
22 between the meditation and between AA and
23 between different groups especially that deal
24 with cognitive therapy and that the meditation
25 is a mind - what they call a mindfulness
26 meditation, so the whole - a lot of the idea is
27 to be aware - be more aware of your thoughts and

1 your feelings, and especially of - of looking at
2 them and - and challenging them when they're not
3 really rational and talking to somebody to get
4 feedback about it, see if you're looking at
5 thing from a - things from a distorted point of
6 view, and also, like I said, especially to talk
7 to people about not just enduring stressful
8 conditions just because you're supposed to be a
9 stoic and you're just supposed to, you know,
10 deal with it. So I don't believe that there is
11 anything to worry about, but like I said, I - I
12 - I think that I probably have less to worry
13 about my - myself than the average person that
14 doesn't know what's possible with the wrong set
15 of circumstances and, you know, problems,
16 because I know I have to look out for it. I'm
17 not sure that - I don't feel like I answered you
18 quite adequately but I can't think of -

19 **DEPUTY COMMISSIONER KEENAN:** No, you'll -

20 **INMATE SUNDBERG:** - what else to say.

21 **DEPUTY COMMISSIONER KEENAN:** - get a
22 chance with a closing comment to. If there's
23 something you forgot, you could mention it. So
24 that - that mindfulness, awareness, is sort of
25 one of the cornerstones of -

26 **INMATE SUNDBERG:** Yes.

27 **DEPUTY COMMISSIONER KEENAN:** - therapy

1 you've worked on?

2 INMATE SUNDBERG: Yeah.

3 DEPUTY COMMISSIONER KEENAN: Okay.

4 INMATE SUNDBERG: Right.

5 DEPUTY COMMISSIONER KEENAN: That helped

6 -

7 INMATE SUNDBERG: Mindfulness -

8 DEPUTY COMMISSIONER KEENAN: - you?

9 INMATE SUNDBERG: is part of the

10 meditation and the various different - the

11 depression therapy and also in some of the other

12 - other groups it's - have dealt with - with

13 modified cognitive therapy, which also deals

14 with aware - awareness in dealing with your -

15 keeping a record of your thoughts and looking at

16 them -

17 DEPUTY COMMISSIONER KEENAN: I was just

18 going to -

19 INMATE SUNDBERG: - and questioning them.

20 DEPUTY COMMISSIONER KEENAN: - ask you if

21 you still did that thought record.

22 INMATE SUNDBERG: I - I haven't been

23 keeping one, no. Do you think it's a good idea?

24 DEPUTY COMMISSIONER KEENAN: I'm not a

25 psychologist. It just struck me -

26 INMATE SUNDBERG: Yeah.

27 DEPUTY COMMISSIONER KEENAN: - it struck

1 me as an interesting idea.

2 **INMATE SUNDBERG:** Yeah. Although I am -

3 **DEPUTY COMMISSIONER KEENAN:** So you can
4 sort of track where you're at.

5 **INMATE SUNDBERG:** It could be. I'm doing
6 something a little bit similar. I'm writing
7 stuff for Ms. Woods. I've been seeing her for a
8 few times in - in weekly sessions, and I've been
9 writing stuff down to show her, which is in that
10 direction although not exactly the same thing.

11 **DEPUTY COMMISSIONER KEENAN:** Okay. All
12 right. Thank you.

13 **PRESIDING COMMISSIONER SHELTON:** All
14 right. Mr. Pearson, do you have any questions?

15 **DEPUTY DISTRICT ATTORNEY PEARSON:** Yes.
16 I would like to know from the Inmate if he would
17 at least consider getting into a open marriage
18 situation in the future.

19 **INMATE SUNDBERG:** No. I - I might
20 consider, you know, dating people who don't have
21 a marriage or - or a relationship that's -
22 that's close to that, dating different people
23 and have - dating girls that date different
24 guys, or women that date different guys, but no,
25 I think I've, you know, found from experience in
26 it, and although in - in theory it's wonderful,
27 you know, and it's - it's idealistic and it's

1 great, but in - in practice in my own personal
2 life, you know, there were just times when it
3 doesn't work. Did that answer the question?

4 **DEPUTY DISTRICT ATTORNEY PEARSON:**

5 Somewhat. I'd like to know what the Inmate
6 thinks were probably the most positive things
7 about the open marriage situation.

8 **INMATE SUNDBERG:** Well, one of them was
9 being honest with each other and not having -
10 neither of us having to worry about the other
11 one ever doing something behind the other one's
12 back or something hidden, you know. If - if
13 you're going to have a relationship, you know,
14 it was generally talked about ahead of time and
15 that - or if it happened unexpectedly, which
16 only happened once that I can think of with -
17 and that was Robin and not me - you know, you -
18 you don't hide it, you know, and, you know, the
19 openness and the - and the trying to work
20 together and - you know, trying to care more
21 about each other and trying, you know, not to be
22 jealous and - and excessively possessive, you
23 know. I mean it's - it's really idealistic.
24 It's - it's too idealistic for most people I
25 think, to be able to - to do it successfully.

26 **DEPUTY DISTRICT ATTORNEY PEARSON:** No
27 further questions.

1 **PRESIDING COMMISSIONER SHELTON:** All
2 right. Mr. Rutledge, do you have any questions?

3 **ATTORNEY RUTLEDGE:** Thank you,
4 Commissioner, just - just briefly, just to
5 follow up the People's question. How did you
6 feel when you went to your wife and you said,
7 you know, "I - I - don't want to have an open
8 marriage anymore, I - I want it to be just you
9 and I," and she said, "No, I'm going to stick
10 with what we're doing"? How'd that
11 (indiscernible)?

12 **INMATE SUNDBERG:** Oh, I - I broke down
13 drying. I just felt like if - if that was the
14 case then everything that mattered was - was
15 just wiped out. I was just despondent.

16 **ATTORNEY RUTLEDGE:** And at that time in
17 your life you were saying you were just -
18 continued to just take and do whatever was
19 required of you, like being the good soldier,
20 have you learned through counseling that that's
21 not something that anybody could talk onto their
22 shoulders?

23 **INMATE SUNDBERG:** Oh, no, I mean it's -
24 it's, you know, the macho American male ideal,
25 but it's not human, it's not realistic, and -
26 you know, I mean it's - it's - it's good within
27 limits but you've got to be really careful of

1 those limits. You know, it's good to have -
2 it's good to have perseverance - excuse me - and
3 to have, you know, staying power, but just to
4 keep staying in a situation that's driving you
5 crazy - crazy ultimately is - is just stupid.

6 **ATTORNEY RUTLEDGE:** And again, you've
7 learned not to place yourself in that kind of a
8 position again?

9 **INMATE SUNDBERG:** Yeah, and - and if you
10 find yourself getting into one of those
11 positions then you damn well better start
12 talking to somebody and finding, you know, a way
13 out of it.

14 **ATTORNEY RUTLEDGE:** Today it's - it's
15 real common for us to - to get counseling and to
16 - to seek out a psychologist or a psychiatrist
17 to speak with. Back before the commitment
18 offense did you believe it was very common to
19 have somebody do that?

20 **INMATE SUNDBERG:** I didn't think it was
21 fairly common but I didn't have any bias against
22 it. I thought that it was a good thing. I just
23 didn't know who specifically to go to because
24 like the - the women who had ran the - the - the
25 encounter sort of groups in high school that I
26 went to made a point of saying that, you know,
27 "You don't really want to let someone mess with

1 your head unless you have to because it can be -
2 if you don't need it, it can be more damaging
3 than good," and I wanted to find somebody like,
4 you know, thought could deal with a particular
5 situation that I had and hadn't found one.

6 **ATTORNEY RUTLEDGE:** Thank you,
7 Commissioner.

8 **PRESIDING COMMISSIONER SHELTON:** One more
9 quick question before we go to closing
10 statements, something that Commissioner Keenan
11 brought up and I agree, and this basically what
12 I - what we want to know is how you feel about
13 your victim? I don't want to talk about the
14 offense, I just want to know how you feel about
15 the victim, about how do you feel about what you
16 did, the inside feeling stuff.

17 **INMATE SUNDBERG:** Mostly sad I guess,
18 because I mean I know that I was - I'm trying to
19 talk about this without talking about the crime
20 itself and it's hard, talking about that I was
21 able to do it because in my mind he'd become
22 dehumanized, you know, because of, you know,
23 things that he did to Pam and that he didn't
24 seem to have a conscience so, you know, between
25 caring about Pam and feeling empathy for her and
26 then dehumanizing him, you know, I stopped also
27 empathizing with him to the degree that you

1 should with - with any human being, and that's
2 something that - that the Buddhist class has
3 been good for me and that - because I do tend to
4 emphasize with - with people but you want to -
5 you don't want to empathize with one person so
6 much that you stop caring at all about the other
7 person, and although - I mean I doubt that I'll
8 ever like him after, you known, the things that
9 Pam told me about him doing to her, but
10 nevertheless - I - I guess now I just have more
11 - a little bit more of a sense of sadness and
12 compassion and - and that it - you know, that it
13 was just all wrong, you know, if he needed some
14 kind of - of treatment or something and - and
15 the whole thing is - is just a damn nightmare
16 and was not good for anybody.

17 **PRESIDING COMMISSIONER SHELTON:** Did he
18 deserve to die?

19 **INMATE SUNDBERG:** I don't think so. I
20 don't think so. You know, unless things got to
21 the point where it was necessary to - to
22 actually save somebody's life, I don't think
23 it's justifiable.

24 **PRESIDING COMMISSIONER SHELTON:** Okay.
25 Thank you. We are going to move into closing
26 comments, and Mr. Pearson?

27 **DEPUTY DISTRICT ATTORNEY PEARSON:** Yes.

1 Thank you. I think the inmate we have before us
2 is a very interesting man, for one thing, has a
3 - a kind of unusual background in a way of - of
4 abilities, and I enjoyed listening to sort of
5 his past and parts of it and - and seeing what
6 got him here. It's very interesting, but
7 unfortunately I view him as a walking time bomb,
8 I really do. It's - I think he's very
9 unpredictable as to what might happen in the
10 future for a number of reasons. I think he's
11 unstable and unpredictable and the things that
12 came in my head, of course, were the - he talked
13 about family depression and the suicide, even
14 suicide attempts that he has made, and I think
15 anyone that attempts suicide, that's such a
16 drastic thing for any of us to do to ourselves
17 that I think that makes the person really
18 unpredictable, you wonder if you would destroy
19 yourself, if you got angry at someone else,
20 would - would you hesitate to destroy them? And
21 my feeling, the answer probably is no. I think
22 you could almost protect yourself above anyone
23 else on earth are basically self - somewhat
24 selfish and self-centered, I think most of us,
25 and to me, that's the unthinkable. I think I
26 would never attempt to destroy myself, but he's
27 in that category and here we had of course beer

1 involved, two 16-ounce cans involved, we have
2 guns involved, which I think makes it a very
3 complex situation, and there was a child
4 involved, the - the victim in this case had the
5 11-year-old son there trying to interfere and
6 stop this happening, so he actually murdered the
7 - the man's - well, the child's father right in
8 front of the child, which I think is a very
9 aggravated situation also. Another thing I
10 noticed in this, one of the places I read in
11 there, it says that he shot a minimum of 14
12 times. I don't know that necessarily 14 shots
13 hit - hit the victim, I don't think so, but it
14 did mention here that he struck the - the victim
15 in a number of parts of his body: he was shot in
16 the head and he was shot in the chest, he was
17 shot in the forearm and in the wrist, and I
18 supposed the forearm and the wrist were the
19 victim probably putting his hands up trying to
20 defend himself and the - the shots hit his - his
21 arms and his - and his wrist in this - in this
22 case. So there was a lot of shooting here. And
23 I noticed that the - the weapon that he was
24 shooting apparently only held five bullets at
25 one time, and so they mention there were reloads
26 in this case, I think it was twice, the gun was
27 reloaded two times, which means that he had some

1 time to think about what he was doing and
2 reflect on it and hopefully stop. He didn't
3 apparently do that, but it could have stopped
4 him, and the reload is - is very important I
5 think in this case, it's - so it's like separate
6 incidents: you reload and fire again, and then
7 reload and fire again, and that's a lot of
8 thinking time in there. I know I used to shoot
9 competitively when I was a police officer some
10 years ago, I shot in pistol matches around the
11 state, and the key I always learned is load fast
12 and shoot slow. That's the key thing. You -
13 you make the - the reload quick, and prac -
14 practice fast reloads, and then you shoot slow
15 and deliberate so you make sure you hit your
16 target. Well, here he was - he was certainly
17 hitting the target, unfortunately, but he had
18 time really to think about this, and he's a
19 thinking man. A lot of people we see in here I
20 think are not necessarily thinking men, in fact
21 the reason they're in here is because they
22 didn't think, they didn't think at all, and they
23 just did it and it was done, and it's kind of
24 sad to think this is a non-thinking person and
25 look what that for you. You know, here is a
26 thinking man who has a good mind and
27 unfortunately that didn't stop him, it didn't

1 stop him until he had fired at least 14 times,
2 so I think it's a - a very flagrant and a very
3 offensive killing in this case, against an
4 unarmed man, he wasn't armed at the time, he was
5 in own - own house. The inmate here followed
6 him into his own home, the victim, followed him
7 into the bathroom, shot him in the bathroom, and
8 - and here is trying to protect himself and
9 defend him - defend against the inmate, and that
10 didn't stop him from continuing to shoot. His -
11 his little boy there didn't - didn't stop him,
12 so I think it's an extremely flagrant crime and
13 it's one that I'm sure some thought went into
14 committing the offense by a thoughtful man. So
15 for these reasons I would urge the - the Board
16 to deny him parole at this time. Thank you.

17 **PRESIDING COMMISSIONER SHELTON:** Thank
18 you. Oh, I'm sorry. Mr. Rutledge?

19 **ATTORNEY RUTLEDGE:** Thank you,
20 Commissioner. I think Counsel brings up some
21 good points. I agree, I think that my client is
22 a very thinking man, and the person that we see
23 today is a different person than the person that
24 committed the offense. The person that
25 committed the offense was, although I believe an
26 intelligent individual, he was also a sick
27 individual, an individual that had severe

1 depression, that by his own admission had -
2 tried to take his own life, and I'd agree with -
3 with Counsel that normally we are selfish
4 people, and normally we do everything possible
5 to try to protect ourselves, but a person who's
6 depressed is in a different state of mind. A
7 person who's depressed isn't trying to help
8 themselves, they're beyond that, and that's what
9 he has said, and that's the results of what we
10 saw. Now just also to address, in the record
11 there was 14 shots that were fired, 11 of the
12 shots went elsewhere, according to the record,
13 and this wasn't a - a victim that - and I - I'm
14 not wanting - no one deserves to die, and I
15 think my client agrees and has stated that
16 unless you're trying to protect somebody else's
17 life that nobody's life should be taken, but
18 this is not a victim who was completely
19 sympathetic. This is a victim that also did
20 attack my client, there was a fight, it wasn't
21 just a one-sided where he was - my client was
22 chasing him down trying to shoot him, he was
23 fighting, and this is a person who also had been
24 extremely abusive towards his own wife, had tied
25 her up, had abused her. Now this is a - kind of
26 a unusual situation for us I think to - to think
27 about, but my client had had a intimate

1 relationship with this person who had been tied
2 up and abused by the person that he shot, and I
3 made the comment and the question, he was the
4 good soldier, he is the person who would try to
5 fix things, and in a depressed state of mind,
6 with alcohol added to it, and he sees this
7 person that he knows that has been extremely
8 abusive somebody that he cared very much for
9 there, and he saw red, as he said, and was
10 trying to be the good soldier and try to fix a
11 problem in a - in a inappropriate manner. I
12 think that we need to commend him because while
13 he was in county jail, though he did himself, he
14 sought out help because it was available to him
15 there, and did see a psychiatrist or a
16 psychologist to be able to help with the
17 depression. He didn't have any juvenile record,
18 he didn't have any adult record, he has
19 indicated remorse, while being here he has no
20 115s, no 128s. If in a different setting, I - I
21 couldn't help but feel that somewhat in the
22 question and the responses, if we were a
23 committee that was going to hire someone that
24 had an opening, I - my sense is that we'd
25 probably all say, "Yeah, we should hire him.
26 He's a hard worker, he's a good person, he's
27 somebody who we would feel comfortable being

1 with us," and I - I understand the People's
2 concern of him being a - a time bomb, and that
3 would be my concern as well but for the fact
4 that he has shown a tremendous amount of insight
5 in his depression and how to handle it, so much
6 insight that it's not just him helping himself,
7 he's helping others in these groups, the - the
8 chronos that he has, and this is a humble man
9 too. He - when it was mentioned about donating
10 the books he said, "I - I didn't even want them
11 to put that in there," so we don't know how much
12 other good he's done. I got writer's cramp
13 writing out all the chronos - and finally
14 stopped - that - that he had received, and we
15 don't even know how much else he's - he's
16 helped, and again, in a different setting with
17 all the volunteering that he has done, he - he
18 gets in and does the self-help for himself, but
19 he takes it the other step and - and wants to
20 help the other inmates with the math, he wants
21 to even help the institution by writing programs
22 to try to help, and in another setting he could
23 - in many of these years he would be a candidate
24 for citizen volunteer of the year, and so I - I
25 think that very serious consideration should be
26 given to giving him a date, and in the
27 alternative that a term be set. I think he's an

1 outstanding candidate.

2 **PRESIDING COMMISSIONER SHELTON:** Thank
3 you. All right. Sir, it's your opportunity to
4 speak in your own behalf and tell us why you
5 think you're suitable for parole.

6 **INMATE SUNDBERG:** Okay. Well, first of
7 all, I'd like to say that I understand the
8 district attorney's concerns and - and if I was
9 in that position I would probably be, you know,
10 extremely similar; however, I think that that's
11 - it's more - that's more applicable to my state
12 of mind prior to and at the time of the crime
13 than it is currently. Although I'm always, you
14 know, at risk for worsening depression episodes,
15 at this, you know, point in my - in my life, if
16 something like that happened, you know, it's - I
17 might become more suicidal, and this is also the
18 opinion of - of I know one of the psychiatrists
19 that I've talked to for many years, but that,
20 you know, should anything - you know, a bad
21 episode happen again that it would be almost
22 entirely probably suicidal, it wouldn't be
23 directed towards anyone else because of - of my
24 awareness of - of what I've done in the past and
25 my awareness that you have to be - take each
26 person as a human being even if, you know, they
27 do something that makes you want to put them in

1 some category, you know, some label, that you
2 can't forget that at some level they're the same
3 as everybody else, they feel the same pain as
4 everybody else and - and they want to be happy
5 just like everybody else, so you can't blow up
6 at - at someone else even if - even if there
7 are, you know, things that they have done that
8 have - have aggravated you, or things that to
9 some people might be an acceptable rationale. I
10 know some of the - even one or two, you know,
11 COs and - and staff people that I've talked to a
12 little bit seem to - to think that it was ex -
13 you know, excusable or, you know, that he had it
14 coming, and I've tried to tell them, "Well, no,"
15 because first of all, you know, if this person
16 has does - has done something, and this is - and
17 there - there are some kind of cause and effect
18 going on, you know, whether you want to look at
19 it as - as a religious sense, you know, like
20 sowing what you reap or - or karma, okay, that's
21 - that's - that person and that's their life,
22 that's not you. That doesn't mean that you have
23 anything to do with that or any right to do
24 anything with that, so you have to maintain
25 awareness of everybody, even people that you
26 don't like and that you think bad things about,
27 as another human being with a lot of the same

1 things in common with you, and the Buddhist
2 meditation, the classes really emphasize that a
3 lot, that, you know, everyone is deserving of -
4 of trying to be happy and of just being allowed
5 to live, so, you know, even if you're judgmental
6 with them that doesn't - it doesn't justify -
7 anyhow, that's - I guess that's mostly just I
8 want to say, that - that I can - and I - I
9 appreciate the district attorney for not really
10 beating me up too, that - that, you know,
11 dealing with what I think are legitimate
12 concerns, and I can understand that, although I
13 just have to respectfully think that that really
14 is - is looking at - at the past and that the
15 situation now, that there are different elements
16 involved that keep - are - would keep that from
17 being the same kind of problem now.

18 **PRESIDING COMMISSIONER SHELTON:** Thank
19 you, sir. We are going to recess for
20 deliberations. The time is 11:35 a.m.

21 **R E C E S S**

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1 CALIFORNIA BOARD OF PAROLE HEARINGS

2 D E C I S I O N

3 DEPUTY COMMISSIONER KEENAN: Back on
4 record.

5 PRESIDING COMMISSIONER SHELTON: All
6 right. We're back in the parole consideration
7 hearing for Roger Sundberg, S-U-N-D-B-E-R-G, CDC
8 number D-79282. The time is 12 noon. Everyone
9 has returned to the hearing room that was here
10 during the hearing. The panel has reviewed all
11 the information received and relied on the
12 following circumstances in concluding, Mr.
13 Sundberg, that you are not yet suitable for
14 parole and would pose an unreasonable risk of
15 danger to society or a threat to public safety
16 if released from prison, and we're giving you a
17 year, and there are certain things that you need
18 to accomplish during this next year. Some of
19 them we've already touched on but I will be
20 reviewing them with you. First of all, sir, I
21 would like to say you're a very interesting
22 person. We were both very impressed with your
23 thought processes and I think Mr. Pearson hit it
24 right on the head when he called you a thinking
25 man. You have done an incredible amount of
26 programming and obviously some serious
27 R. SUNDBERG D-79282 DECISION PAGE 1 6/7/06

1 introspection. I want to get into some of that
2 but I'm going to go through this process that we
3 need to go through, and then I want to talk to
4 about what you need to do to put yourself closer
5 to a parole date, all right?

6 **INMATE SUNDBERG:** Right.

7 **PRESIDING COMMISSIONER SHELTON:** First of
8 all, we talked about the commitment offense. It
9 was carried out in an especially cruel and
10 callous manner. A boy watched his father die.
11 It was indicated that you shot, or you fired 14
12 times. Fortunately 11 missed. The gun was
13 reloaded twice. The offense was carried out in
14 a manner which demonstrates exceptionally
15 callous disregard for human suffering, and - and
16 to be truthful, the motive was very trivial for
17 the actions. The conclusions are drawn from the
18 Statement of Facts taken from the Board Report
19 dated October 2005. To your benefit, you have
20 absolutely no prior record and it does not
21 appear that you had any unstable social history.
22 Based on our discussion about your family, it
23 seemed that you were raised in a very supportive
24 home environment, and obviously to this day
25 they're still supportive. Your institutional
26 behavior, to your credit you have never received
27 **R. SUNDBERG D-79282 DECISION PAGE 2 6/7/06**

1 a 115, and you received one 128 back in '98,
2 that was for grooming standards, and you
3 explained that situation to us. We reviewed
4 your psychiatric records. They were discussed
5 here today. You had a - a psychiatric
6 evaluation in September '04 by Dr. Stack. She
7 indicated your depression was controlled by
8 medication and your participation in groups.
9 Your GAF score was 80, and I think Commissioner
10 Keenan relayed what that consisted of, and your
11 violence level is considered below average to
12 the average inmate, average to any citizen on
13 the street. There was discussion that stress
14 still is an issue. Her recommendation was that
15 you needed psychiatric treatment after release,
16 and you needed to participate - or ongoing
17 participation in groups. Dr. Terrini's eval in
18 2002 was somewhat similar. Parole plans. I
19 want to talk about parole plans. We talked
20 about them briefly. What you really need to
21 work on is some strongly parole plans this next
22 year. We talked about transitional housing. I
23 think I did the don't-put-your-eggs-all-in-one-
24 basket remark. I would love to see in your file
25 a couple alternatives for you for transitional
26 housing. One of the things - I don't know if
27 **R. SUNDBERG D-79282 DECISION PAGE 3 6/7/06**

1 anybody ever told you this, sir, but - excuse me
2 - we're not the first stop on the parole issue,
3 parole release issue. When you are granted a
4 date - and I will be optimistic for you as well
5 - it goes to another hearing pan - not a hearing
6 panel but a decision review process, and they
7 look in your files. They don't get to talk to
8 you, so if it's not in your file, you don't have
9 a second chance. So my recommendation is to get
10 everything you possible can in your file. So
11 some of the papers that you handed us today, if
12 they're not in your file, get them to somebody
13 to get them in your file.

14 **INMATE SUNDBERG:** Okay.

15 **PRESIDING COMMISSIONER SHELTON:** As well,
16 the third stop's to the Governor. Same
17 situation there. You don't to talk to him so
18 they won't know the quality or kind of person
19 you are, so it's a paper process as well. The
20 other thing that should be in your file is - and
21 I've seen other inmates do it so it's - I
22 recommend it. With regards to AA, if you're
23 going to parole to your mom's house, you know
24 the general location, find out the times of the
25 AA groups available to you in that area and how
26 you're going to get there. We discussed the

27 **R. SUNDBERG D-79282 DECISION PAGE 4 6/7/06**

1 possibility that you might not be able to get a
2 driver's license, so prepare for those options.
3 So if somebody says to you, "Well, that's all
4 fine and dandy but this is three miles from your
5 mom's home, how're you going to get there?" Be
6 prepared to give them an answer.

7 **INMATE SUNDBERG:** Right. Well, yeah, I
8 mean, I suppose I should've addressed that when
9 you were mentioning it, but Long Beach has a
10 pretty good bus system, or did 20 years ago when
11 I was there, because I know when my car broke
12 down I had to go from Long Beach to Bell for
13 several months using, you know, the local and
14 the RTD bus system.

15 **PRESIDING COMMISSIONER SHELTON:** And what
16 I'm indicating is get it in writing. Put it
17 down as part of your parole plan. Get a copy of
18 the bus schedule -

19 **INMATE SUNDBERG:** Okay.

20 **PRESIDING COMMISSIONER SHELTON:** -
21 (indiscernible), you know. Get a copy of the AA
22 schedule, get a copy of the bus schedule. Since
23 your psychiatrist - or since the psych eval
24 indicated that you should participate in groups
25 and you should have psychiatric assistance when
26 you leave here, you need to see what you can do
27 **R. SUNDBERG D-79282 DECISION PAGE 5 6/7/06**

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1 about finding a doctor or a service or a medical
2 service that you could participate in and
3 document that as well. I'm not going to be the
4 only one in your world that has a concern about
5 whether you're going to take your medications or
6 whether you have a support system. What - I
7 guess what I'm asking you to do, sir, is to
8 build a support system for you on the outside
9 like you've developed here on the inside.

10 **INMATE SUNDBERG:** Right. But as far as
11 the Parole Department not being my first stop,
12 well, okay, I can appreciate that; however, if
13 they - if they offer services, I'm certainly
14 going to take advantage of them.

15 **PRESIDING COMMISSIONER SHELTON:** Most
16 definitely, but don't let it be the only stop.

17 **INMATE SUNDBERG:** Yeah.

18 **PRESIDING COMMISSIONER SHELTON:** Yeah.
19 The other thing that we talked about before is
20 employment opportunities. You're a very
21 talented person. See if you can put some
22 feelers out there, and at the very least, even
23 though you write and people don't write you
24 back, put your letters in the record -

25 **INMATE SUNDBERG:** Oh, okay.

26 **PRESIDING COMMISSIONER SHELTON:** - that

27 **R. SUNDBERG D-79282 DECISION PAGE 6 6/7/06**

1 you've sent out. What that shows - and I don't
2 doubt you when you said you wrote 40 or 50 of
3 them, I don't doubt that one bit, somebody else
4 might, but what it does show in writing is "Wow,
5 look at the efforts and attempts that he's gone
6 to to secure employment." You don't have to
7 have a job to parole, you have to have made an
8 attempt, and that documents your attempt, so put
9 those in the file. So we've covered a couple
10 alternatives for housing, we already discussed
11 there's a mom potential, a sister potential,
12 look into the transitional housing. That covers
13 a lot of bases for you. Follow-up with AA,
14 psychiatric assistance through a group process
15 and one-on-one counseling, employment
16 opportunities, and of course you need to - you
17 need to figure out how you're going to get
18 ongoing medication, you know. Are you going to
19 be on MediCal when you first get out? If you
20 get out and you don't have a job, how are you
21 going to pay for that kind of stuff? You know
22 you have to keep your medication going, you
23 can't like wait, "Oh, well, I can do without for
24 two weeks until I get a paycheck." So have a
25 way to substantiate your ongoing care. As you
26 know, we had two 3042 responses, one was from
27 **R. SUNDBERG D-79282 DECISION PAGE 7 6/7/06**

1 the District Attorney's Office in L.A. and one
2 was the from the L.A. Sheriff's Department, both
3 in opposition to a parole date for you. I want
4 to talk about the good things, and then I want
5 to talk about a concern. You have done an
6 incredible job here, and I want - for the
7 record, I want the record to know that we
8 already indicated, no disciplinary issues
9 whatsoever, and this is not necessarily an order
10 of participation, but these are some of the
11 things, not all of them, that you've
12 participated in in your time here. You are in
13 an ongoing Depression Management group and a
14 Self-Esteem group; you've participated in a 12-
15 week Anger Management program; you received a
16 letter of commendation for your participation in
17 Buddhist meditation studies; you are enrolled in
18 Coastline Community College and are
19 participating in General Ed classes with the
20 hopes of moving forward into a Computer Science
21 degree; your vocation is in Data Processing; you
22 were a Computer Technician for two years;
23 currently your assignment is working as an Adult
24 Basic Ed Tutor, especially in math and homework
25 grading; you've been in AA ongoing since 1989;
26 you've received exceptional grades; you've been
27 **R. SUNDBERG D-79282 DECISION PAGE 8 6/7/06**

1 - you're considered a great worker and you have
2 a positive attitude; you've participated in Life
3 Skills in '92, Stress and Anger Control in 2001,
4 the Impact program June of '04, that was a 13-
5 week program -

6 (Off the record)

7 **DEPUTY COMMISSIONER KEENAN:** Back on
8 record, Side 2.

9 **PRESIDING COMMISSIONER SHELTON:** Okay. I
10 was going over some of the good hard work done
11 by Mr. Sundberg and I was indicating that you
12 had received your AA in General Studies through
13 Hartnell College. You received a laudatory
14 chrono in May of 2006 in - with regards to a
15 vocational Computer Repair class, you helped
16 students upgrade I think it was 87 computers. I
17 think that's what I wrote down. I'm impressed,
18 Mr. Sundberg. You have - I'm fortunate -
19 fortunate enough to run across a few men like
20 you who have done just about everything that
21 they can possibly do with the hopes of bettering
22 themselves, but the one thing I wanted to talk
23 to you about is I'm concerned about what I feel
24 is a disconnect, and I know you're very
25 thoughtful, and in fact analytical, and I think
26 a lot of your stuff stays up here, but you need
27 **R. SUNDBERG D-79282 DECISION PAGE 9 6/7/06**

1 to deal with here, and I think it's - there's a
2 - a head versus heart thing I'm dealing with
3 here. You struggle so hard to say the right
4 things and to do the right things. I'm not sure
5 if you're feeling the right things. It's -

6 **INMATE SUNDBERG:** What do you mean by the
7 right things?

8 **PRESIDING COMMISSIONER SHELTON:** Or
9 anything, maybe that matter. Maybe instead of -
10 it's - it's very hard for me to explain this to
11 you, but I'm a touchy-feely person and you're an
12 analytical person. You think things through.
13 You - you struggled very hard today analyzing
14 our questions. You did a wonderful job. It's
15 not anything negative. I just don't know how
16 much of it is internalized and what you truly
17 deep down inside of yourself believe to be true,
18 or if you're saying what you think you've
19 learned in meditation or some of your other
20 studies. You're very introspective, but I don't
21 know what you feel. I know what you think, but
22 I don't know what you feel, and I'm not asking
23 for an answer to that. That's something that I
24 would like to see you become more in touch with
25 your heart while you're coming - becoming in
26 touch with your head. You have done a very good
27 **R. SUNDBERG D-79282 DECISION PAGE 10 6/7/06**

1 job here. I think you've got to put a few more
2 ducks in order to strengthen your support system
3 outside. Do you have any comments,
4 Commissioner?

5 **DEPUTY COMMISSIONER KEENAN:** No. I just
6 note that confidential information was not used.

7 **PRESIDING COMMISSIONER SHELTON:** All
8 right. I wish you all the luck in the world,
9 sir. That concludes this hearing. It is 12:15.

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23 **PAROLE DENIED ONE YEAR**

24 **THIS DECISION WILL BE FINAL ON:** OCT 05 2006

25 **YOU WILL BE PROMPTLY NOTIFIED, IF PRIOR TO THAT**
26 **DATE, THE DECISION IS MODIFIED.**

27 **R. SUNDBERG D-79282 DECISION PAGE 11 6/7/06**

CERTIFICATE AND
DECLARATION OF TRANSCRIBER

I, BERENICE BILLINGTON, a duly designated transcriber, PETERS SHORTHAND REPORTING, do hereby declare and certify under penalty of perjury that I have transcribed tape(s) which total two in number and cover a total of pages numbered 1 - 116, and which recording was duly recorded at CORRECTIONAL TRAINING FACILITY, SOLEDAD, CALIFORNIA, in the matter of the SUBSEQUENT PAROLE CONSIDERATION HEARING OF ROGER SUNDBERG, CDC NO. D-79282, ON JUNE 7, 2006, and that the foregoing pages constitute a true, complete, and accurate transcription of the aforementioned tapes to the best of my ability.

I hereby certify that I am a disinterested party in the above-mentioned matter and have no interest in the outcome of the hearing.

Dated SEPTEMBER 4, 2006, at Sacramento,
California.



BERENICE BILLINGTON
TRANSCRIBER
PETERS SHORTHAND REPORTING

EXHIBIT "B"

1 in CCCMS. And you say you've been in CCCMS since
2 you've been incarcerated?

3 **INMATE SUNDBERG:** I believe so, provided that
4 they called it that then.

5 **PRESIDING COMMISSIONER BIGGERS:** All right. So
6 you've been getting -- receiving psychotropic
7 medication since you've been in prison?

8 **INMATE SUNDBERG:** And therapy, yes.

9 **PRESIDING COMMISSIONER BIGGERS:** And therapy?
10 How long has your therapy? What kind of therapy are
11 you on, sir?

12 **INMATE SUNDBERG:** I've had all kinds of therapy.
13 I've, you know, met regularly with psychologists and
14 psychologists -- and psychologists and psychiatrists,
15 you know, every 90 days since the beginning, as well as
16 having a variety of different groups, and 7 R's, and
17 one-on-one counseling's over the years.

18 **PRESIDING COMMISSIONER BIGGERS:** Okay. Are they
19 helping you?

20 **INMATE SUNDBERG:** Oh, tremendously.

21 **PRESIDING COMMISSIONER BIGGERS:** Okay. All
22 right. How far did you get in school on the streets?

23 **INMATE SUNDBERG:** I had some college.

24 **PRESIDING COMMISSIONER BIGGERS:** Some college?
25 Do you have any -- did you ever have to take any

V-7923
07/1

FILED
COUNT CLERK

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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF LOS ANGELES
10 DEPARTMENT SE E HON. MICHAEL A. COWELL, JUDGE PRO TEMPORE
11
12 THE PEOPLE OF THE STATE OF CALIFORNIA,)
13 PLAINTIFF,)
14 VS.) NO. A 474007
15 ROGER SUNBERG,) STATE PRISON
16 DEFENDANT.)
17

18 NORWALK, CALIFORNIA; WEDNESDAY, FEBRUARY 24, 1988
19 10:40 A.M.

20 UPON THE ABOVE DATE, THE DEFENDANT BEING PRESENT IN
21 COURT AND REPRESENTED BY COUNSEL, JOAN GARROTT, DEPUTY
22 PUBLIC DEFENDER OF LOS ANGELES COUNTY; THE PEOPLE BEING
23 REPRESENTED BY MARGARET HAY, DEPUTY DISTRICT ATTORNEY OF
24 LOS ANGELES COUNTY, THE FOLLOWING PROCEEDINGS WERE HELD:

25 (DEBORAH D. COUWENBERG, CSR #2803, OFFICIAL REPORTER.)

26 THE COURT: 302, PEOPLE VERSUS ROGER SUNBERG.

27 MS. GARROTT: READY ON THAT MATTER, YOUR HONOR.

28 YOUR HONOR, MAY I APPROACH, BRIEFLY?

1 (CONFERENCE AT THE BENCH NOT REPORTED.)

2 THE COURT: THE DEFENDANT, ROGER SUNBERG, IS
3 PRESENT BEFORE THE COURT WITH COUNSEL.

4 COUNSEL, DO YOU WAIVE FORMAL ARRAIGNMENT FOR
5 JUDGMENT AND SENTENCING?

6 MS. GARROTT: SO WAIVED.

7 THERE IS NO LEGAL CAUSE WHY SENTENCE MAY NOT
8 NOW BE IMPOSED.

9 THE COURT: IN THIS MATTER I HAVE READ AND
10 CONSIDERED THE REPORT OF THE PROBATION OFFICER IN ITS
11 ENTIRETY, THE REPORT CONSISTING OF 12 PAGES, ALONG WITH
12 THE NUMEROUS LETTER ATTACHMENTS SUBMITTED IN BEHALF OF THE
13 DEFENDANT BY RELATIVES, FRIENDS, AND CO-WORKERS.

14 I HAVE JUST RECEIVED A WRITTEN STATEMENT FROM
15 THE DEFENDANT HIMSELF, AND IF YOU'LL BEAR WITH ME FOR A
16 MOMENT --

17 VERY WELL.

18 I HAVE READ AND CONSIDERED THAT FIVE-PAGE
19 LETTER SUBMITTED BY THE DEFENDANT.

20 IS THERE ANY LEGAL CAUSE WHY SENTENCE SHOULD
21 NOT NOW BE IMPOSED?

22 MS. GARROTT: THERE IS NONE, YOUR HONOR.

23 THE COURT: DO YOU WISH TO BE HEARD, COUNSEL?

24 MS. GARROTT: NO, YOUR HONOR. I WOULD SUBMIT IT ON
25 THE LETTERS, AND THE POLICE REPORTS, AND THE NEGOTIATED
26 DISPOSITION.

27 THE COURT: THE PEOPLE WISH TO BE HEARD?

28 MS. HAY: SUBMITTED ON THE NEGOTIATED PLEA, WHICH

1 IS 17 TO LIFE, AND THERE IS NO DISCRETION IN THAT.

2 THE COURT: WHILE THERE ARE A NUMBER OF MITIGATING
3 FACTORS THAT VERY ASSUREDLY CAN BE ASSERTED ON BEHALF OF
4 THE DEFENDANT, THE DISTRICT ATTORNEY IS QUITE CORRECT IN
5 ASSERTING THAT THERE IS NO DISCRETION IN THE PART OF THE
6 COURT.

7 THE DISPOSITION WAS A PLEA OF GUILTY TO
8 SECOND-DEGREE MURDER, AND THE SENTENCE AS REQUIRED BY LAW
9 IS 17 YEARS TO LIFE.

10 IT IS THEREFORE THE ORDER OF THE COURT THAT
11 THE DEFENDANT, WHO IS INELIGIBLE FOR PROBATION, BE
12 SENTENCED TO STATE PRISON FOR THE TERM OF 17 YEARS TO
13 LIFE.

14 WITH RESPECT TO CUSTODY CREDITS, I BELIEVE
15 MS. GARROTT, YOU INDICATED THAT THE NUMBER SHOWN IS IN
16 ERROR.

17 MS. GARROTT: YES, YOUR HONOR, MY CALCULATIONS
18 INDICATE THAT HE HAS 293 ACTUAL, AND 146 BEHAVIOR, FOR A
19 TOTAL OF 439 DAYS.

20 THE COURT: ALL RIGHT.

21 IT IS ORDERED THAT HE RECEIVE TIME CREDITS IN
22 THAT AMOUNT, AS RECITED BY COUNSEL, 439 DAYS TIME TOTAL
23 SERVED.

24 THE COURT WILL ASSESS A \$100 RESTITUTION
25 FINE, PURSUANT TO SECTION 13967 OF THE GOVERNMENT CODE.

26 COUNSEL IS RELIEVED.

27 MS. GARROTT: YOUR HONOR, WITH RESPECT TO LOCATION
28 IN THE DEPARTMENT OF CORRECTIONS, I REALIZE THE COURT HAS

1 NO AUTHORITY TO ORDER A SPECIFIC LOCATION. HOWEVER,
2 MR. SUNBERG HAS ASKED THAT THE COURT RECOMMEND THAT HE BE
3 HOUSED AT SAN LUIS OBISPO C.M.C. EAST, IF THE COURT --

4 THE COURT: VERY WELL.

5 THE COURT WILL MAKE THAT RECOMMENDATION.

6 MS. GARROTT: THANK YOU.

7 THE COURT: THANK YOU, COUNSEL.

8 (PROCEEDINGS CONCLUDED.)

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES
DEPARTMENT SE E HON. MICHAEL A. COWELL, JUDGE PRO TEMPORE

THE PEOPLE OF THE STATE OF CALIFORNIA,)
)
 PLAINTIFF,)
)
 VS.) NO. A 474007
)
 ROGER SUNBERG,)
)
 DEFENDANT.)

REPORTER'S CERTIFICATE

[illegible]

I, DEBORAH D. COUWENBERG, OFFICIAL REPORTER OF THE
SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY
OF LOS ANGELES, DO HEREBY CERTIFY THAT THE FOREGOING IS A
TRUE AND CORRECT TRANSCRIPT OF ALL OF THE PROCEEDINGS HELD
AT THE TIME OF PRONOUNCING SENTENCE; AND, FURTHER, THAT
THE VIEWS AND RECOMMENDATIONS OF THE COURT, IF ANY, ARE
CONTAINED THEREIN, PURSUANT TO SECTION 1203.01 OF THE
PENAL CODE.

DATED THIS 15TH DAY OF MARCH, 1988.

CSR #2803
OFFICIAL REPORTER

EXHIBIT "C"

PERSONAL HISTORY:
(CONTINUED)

SOURCES OF INFORMATION (this page)

DEFENDANT

EMPLOYMENT STATUS	<input checked="" type="checkbox"/> EMPLOYED	REFERRED TO WORK FURLOUGH	EMPLOYER AWARE OF PRESENT OFFENSE	
	<input type="checkbox"/> UNEMPLOYED	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	<input type="checkbox"/> N/A	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
XXXXX / LAST EMPLOYER / ADDRESS / PHONE AT&T 4949 LAKEWOOD BLVD. LAKEWOOD, CA		OCCUPATION LONG-DISTANCE TELEPHONE OPR.	PERIOD OF EMPLOYMENT NINE YEARS	GROSS MONTHLY WAGE \$1,700.
<input checked="" type="checkbox"/> VERIFIED <input type="checkbox"/> UNVERIFIED		EMPLOYMENT STABILITY LAST 5 YEARS GOOD	TYPES OF PREVIOUS EMPLOYMENT CUSTODIAN	

Additional information

FINANCIAL STATUS	INCOME STABILITY FAIR	NET MONTHLY INCOME \$1,200	
PRIMARY INCOME SOURCE EMPLOYMENT	SECONDARY INCOME SOURCE(S) NONE	EST. TOTAL ASSETS NONE	EST. TOTAL LIABILITIES UNKNOWN
MAJOR ASSETS / ESTIMATED VALUE NONE			
MAJOR LIABILITIES / ESTIMATED AMOUNT (MONTHLY) \$1,200 BILL OWING TO CREDIT CARD ACCOUNTS.			

Additional information

DEFENDANT STATES THAT SINCE THIS CRIME OCCURRED HIS
WIFE HAS HAD TO MOVE TO MORO BAY TO LIVE WITH HER PARENTS BECAUSE
THERE IS NO INCOME AND NO RESOURCES.

GANG ACTIVITY ☐ YES ☒ NO

Name of Gang _____

-9- (SUNBERG)

1 DEFENDANT'S STATEMENT:

2 DEFENDANT WAS INTERVIEWED IN LOS ANGELES COUNTY
3 JAIL AND DURING THE INTERVIEW HE BECAME VERY UPSET WHEN ASKED
4 IF HE WANTED TO MAKE A STATEMENT AND AS HE THOUGHT ABOUT IT,
5 HE DECIDED THAT HE WAS NOT ABLE TO THINK OF ANYTHING APPROPRIATE
6 TO SAY AT THAT TIME AND INDICATED THAT HE WOULD TRY TO WRITE
7 A LETTER TO THE COURT IN TIME TO HAVE IT INCLUDED WITH THIS REPORT
8 OR BRING IT TO COURT FOR THE JUDGE TO READ. NO WRITTEN
9 COMMUNICATION HAS BEEN RECEIVED FROM THE DEFENDANT AT THE TIME
10 OF THIS DICTATION.

11 INTERESTED PARTIES:

12 ATTACHED TO THIS REPORT ARE NUMEROUS LETTERS FROM
13 DEFENDANT'S FAMILY AND FRIENDS ATTESTING TO HIS CHARACTER AND
14 EACH OF THESE LETTERS DESCRIBES DEFENDANT AS A PEACEFUL,
15 INTELLECTUAL, UNASSUMING FAMILY-MAN WHO WAS SELDOM EVER HEARD
16 TO EXPRESS A WORD IN ANGER. IN EVERY LETTER THERE IS SURPRISE
17 AND SHOCK EXPRESSED THAT THIS KIND OF AN OCCURRENCE COULD HAPPEN
18 TO THIS DEFENDANT.

19 EVALUATION:

20 DEFENDANT HAS BEEN CONVICTED OF A SERIOUS FELONY
21 IN COMMITTING THE PRESENT OFFENSE. HE ACCEPTS RESPONSIBILITY
22 AND EXPRESSES REMORSE FOR HIS ACTIONS. THIS CRIME APPEARS TO
23 BE SIGNIFICANTLY OUT OF CHARACTER FOR HIM AS ATTESTED BY HIS

-10- (SUNBERG)

1 ARREST-FREE LIFE TO THIS DATE AND BY THE NUMEROUS LETTERS FROM
2 FAMILY AND FRIENDS ALL OF WHOM AGREE THAT THIS CRIME IS AN UNLIKELY
3 OCCURRENCE IN THEIR EXPERIENCE WITH DEFENDANT. WHILE DEFENDANT
4 DOES INDICATE THAT HE WAS DRINKING TOO MUCH ALCOHOL IN THE DAYS
5 PRIOR TO THE CRIME, HE DOES NOT BLAME THE ALCOHOL FOR HIS CRIME.

6 DEFENDANT DENIED THAT HE HAD DEVELOPED A PERMANENT
7 ROMANTIC RELATIONSHIP WITH THE VICTIM'S WIFE, HOWEVER HE DOES
8 ADMIT TO HAVING INTIMATE RELATIONS WITH HER AND TO SPENDING LONG
9 HOURS TRYING TO BE OF HELP TO HER. IT APPEARS THAT THIS CRIME
10 WAS THE RESULT OF PASSION, JEALOUSY AND RAGE AGGRAVATED BY ALCOHOL
11 WHICH DROVE DEFENDANT TO LOSE CONTROL. THERE IS ALSO SOME
12 INDICATION THAT DEFENDANT SUFFERS FROM CHRONIC DEPRESSION WHICH
13 HE HAS BEEN ABLE TO KEEP UNDER CONTROL MOST OF HIS LIFE WITHOUT
14 MEDICAL TREATMENT. IT ALSO APPEARS THAT THERE WERE SOME FINANCIAL
15 PRESSURES ON DEFENDANT SINCE HE WAS TRYING TO SUPPORT A FAMILY
16 OF FOUR ON AN INCOME OF \$1,200 PER MONTH.

17 DEFENDANT HAS NO PRIOR CRIME RECORD OF ARRESTS
18 OR CONVICTIONS AND THE PRESENT MATTER APPEARS TO BE SIGNIFICANTLY
19 OUT OF CHARACTER FOR HIM, INDICATING PERHAPS MORE EMOTIONAL
20 INSTABILITY THAN CRIMINAL MAKEUP.

21 SENTENCING CONSIDERATIONS:

22 DEFENDANT DOES NOT APPEAR TO BE ELIGIBLE FOR
23 PROBATION SINCE THIS IS A SERIOUS FELONY.

-11- (SUNBERG)

CIRCUMSTANCES IN AGGRAVATION:

1. THE CRIME INVOLVED GREAT VIOLENCE.

CIRCUMSTANCES IN MITIGATION:

1. THE DEFENDANT HAS NO PRIOR RECORD.

RECOMMENDATION:

IT IS RECOMMENDED THAT DEFENDANT BE SENTENCED
AS PRESCRIBED BY LAW.

RESPECTFULLY SUBMITTED,

BARRY J. NIDORF,
PROBATION OFFICER

BY

H. GRADY ROGERS, DEPUTY
RIO HONDO AREA OFFICE
213-692-7011

READ AND APPROVED:

I HAVE READ AND CONSIDERED
THE FOREGOING REPORT OF THE
PROBATION OFFICER.

EUGENE MONTEILH, SDPO

(SUBMITTED 2-16-88)
(TYPED 2-18-88)
HGR:BAC (7)

JUDGE OF THE SUPERIOR COURT

EXHIBIT "D"

COPY TO INMATE ON
OCT 01 2004

**PSYCHOLOGICAL EVALUATION FOR THE BOARD OF PRISON TERMS
(REVISED AUGUST 1998)
PAROLE CONSIDERATION HEARING
OCTOBER 2004 LIFER CALENDAR**

**CORRECTIONAL TRAINING FACILITY, SOLEDAD
SEPTEMBER 20, 2004**

This is the sixth psychological evaluation for the Board of Prison Terms on inmate Roger Sundberg, CDC# D-79282. This report is the product of a personal interview, conducted on 09/20/04, as well as a review of his central file and unit health record.

PSYCHOSOCIAL ASSESSMENT

I. IDENTIFYING INFORMATION:

Inmate Sundberg is a 46-year-old, separated, Caucasian male. His date of birth is 07/31/57. He stated he does not have any religious affiliation. There were no unusual physical characteristics noted, and he denied any history of nicknames or aliases.

II. DEVELOPMENTAL HISTORY:

Inmate Sundberg denied any history of birth defects or abnormalities of developmental milestones, a history of cruelty to animals, any significant childhood medical history, or a childhood history of physical or sexual abuse as either a predator or a victim.

III. EDUCATIONAL HISTORY:

Inmate Sundberg has a high school degree, as well as an Associate of Arts degree in general education. He stated that he spent over 12,000 hours doing data processing during his incarceration period, and has significant computer experience developing custom applications, and training and tutoring people.

IV. FAMILY HISTORY:

Inmate Sundberg's father died over 19 years ago. His mother is still alive at age 89, and is in fragile health. He keeps in contact with her through letters. He has six siblings whom he also maintains close contact with. He denied that any family members have ever had significant criminal problems. He said that depression runs in his family, and that several family members have been afflicted with that disorder. He also has two siblings who either have or had substance abuse problems. He stated that he has a good relationship with all of his family members.

SUNDBERG

D-79282

CTF-CENTRAL

09/17/04

gmj

SUNDBERG, ROGER

CDC NUMBER: D-79282

BPT PSYCHOLOGICAL EVALUATION

PAGE TWO

V. PSYCHOSEXUAL DEVELOPMENT AND SEXUAL ORIENTATION:

Inmate Sundberg stated that he is a heterosexual male. He denied any history of sexual aggression.

VI. MARITAL HISTORY:

Inmate Sundberg is currently married, but separated from his wife, and has minimal contact with her. This is his first marriage. He has two sons from this marriage with whom he stays in contact.

VII. MILITARY HISTORY:

Inmate Sundberg denied any history of military service.

VIII. EMPLOYMENT/INCOME HISTORY:

In the past, inmate Sundberg has been employed at several jobs in the community. His most significant job experience was as a telephone operator, which he did for approximately ten years. When he paroles, he hopes to work with computers, eventually becoming a computer consultant.

IX. SUBSTANCE ABUSE HISTORY:

Inmate Sundberg acknowledges abusing alcohol, stating, "I used alcohol to medicate my depression." He acknowledges that this was a significant problem. He also acknowledged the experimental use of drugs, including marijuana and cocaine, although he felt he was never addicted. He does attend Alcoholics Anonymous.

X. PSYCHIATRIC AND MEDICAL HISTORY:

Inmate Sundberg was hospitalized following his commitment offense when, following the shooting of the victim, he shot himself in the head, and so he was suicidal at that time. As a result of that injury, he has a seizure disorder, and currently takes the medication Dilantin for that disorder.

Inmate Sundberg also takes the medication Zoloft for depression, as well as Trazadone and Benadryl. He is compliant with these medications, and maintains symptom control of his depression.

XI. PLANS IF GRANTED RELEASE:

When he paroles, inmate Sundberg hopes to live with his mother. However, his alternative plans if his mother's health does not permit, he plans to live with one of his sisters. Other plans include employment in the computer industry, plans for

SUNDBERG

D-79282

CTF-CENTRAL

09/17/04

gmj

~~SUNDBERG, ROGER~~

CDC NUMBER: D-79282

BPT PSYCHOLOGICAL EVALUATION

PAGE THREE

outpatient counseling, which he is currently researching, and involvement in community meditation and Alcoholics Anonymous meetings.

CLINICAL ASSESSMENT

XII. CURRENT MENTAL STATUS/TREATMENT NEEDS:

Inmate Sundberg appeared his staged age. He was appropriately dressed and groomed. He was coherent, cooperative, calm and alert. His speech, flow of thought and affect were all within the normal range and appropriate to the content of speech. His intellectual functioning was estimated to be in the above average range. There was no evidence of a thought disorder. Currently, his symptoms of depression are well controlled, in particular by medications, but also by self-help group participation. He is in the CCCMS program here at CTF, and has been for several years. His judgment appeared to sound. He showed good insight into his commitment offense.

CURRENT DIAGNOSTIC IMPRESSIONS (DSM-IV):

AXIS I: 1) Major depressive disorder, improved.
 2) Alcohol abuse, in institutional remission.
 3) Marijuana abuse, in institutional remission.
 AXIS II: No contributory personality disorder.
 AXIS V: Global assessment of functioning (GAF) = 80.

Inmate Sundberg's prognosis is positive for being able to maintain his current mental state in the community upon parole.

XIII. REVIEW OF LIFE CRIME:

Inmate Sundberg essentially agrees with the description in his central file of the commitment offense. He stated that he was extremely stressed at the time of the offense, and that should those conditions ever exist again, he would move out of the area rather than stay near someone who was threatening him and his wife, as the victim did. He stated he now understands that he thought of the victim as less than a human being, and he now realizes that was a mistake.

XIV. ASSESSMENT OF DANGEROUSNESS:

A. In consideration of several factors, including his lack of previous criminal history or violent criminal history, his lack of CDC-115 violations or violent CDC-115 violations, as well as his greater maturity, his violence potential within a controlled setting is estimated to be significantly below average relative to this level II inmate population.

SUNDBERG

D-79282

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gmj

SUNDBERG, ROGER
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BPT PSYCHOLOGICAL EVALUATION
PAGE FOUR

- B. If released to the community his violence potential is estimated to be no more than the average citizen in the community.
- C. The most significant risk factor for this inmate which would be a precursor to violence would be finding himself in circumstances of extreme stress. It is believed that he has learned strategies for dealing with that stress in the future, and I do not expect that he would ever commit another serious crime like that again.

XV. CLINICIAN OBSERVATIONS/COMMENTS/RECOMMENDATIONS:

- A. Inmate Sundberg is competent and responsible for his behavior. He has the capacity to abide by institutional standards, and has done so during his incarceration period.
- B. Inmate Sundberg does suffer from a psychiatric disorder which is well controlled with medications. I believe he could benefit from psychiatric treatment following his parole.
- C. As inmate Sundberg has acknowledged some abuse of alcohol and drugs, I would recommend upon parole:
- 1) Abstinence from all illegal drugs and/or alcohol.
 - 2) Monitoring for substance abuse.
 - 3) Mandatory attendance at self-help groups, such as Alcoholics Anonymous or Narcotics Anonymous.

S. Stack, Ph.D.

S. Stack, Ph.D.
Licensed Psychologist
Correctional Training Facility, Soledad

E. Zika, Ph.D.

E. Zika, Ph.D.
Senior Supervising Psychologist
Correctional Training Facility, Soledad

SS/gmj

D: 09/20/04

T: 09/22/04

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SUNDBERG

D-79282

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09/17/04

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EXHIBIT "E"

PSYCHOLOGICAL EVALUATION FOR THE BOARD OF PRISON TERMS
PAROLE CONSIDERATION HEARING
JULY 2000 LIFER CALENDAR

CORRECTIONAL TRAINING FACILITY, SOLEDAD
MAY 23, 2000

This is the fourth psychological evaluation for the Board of Prison Terms on inmate Roger Sundberg, CDC# D-79282. This report is the product of a personal interview, conducted on 05/23/00, as well as a review of his Central file and unit health record. I have known this individual previously from his involvement in the CCCMS program here at CTF.

PSYCHOSOCIAL ASSESSMENT

I. IDENTIFYING INFORMATION:

Inmate Sundberg is a 42-year-old, separated, Caucasian male. His date of birth is 07/31/57. He stated he does not have any religious affiliation. There were no unusual physical characteristics noted and he denied any history of nicknames or aliases.

II. DEVELOPMENTAL HISTORY:

He denied any history of birth defects or abnormalities of developmental milestones, a history of cruelty to animals, any significant childhood medical history, or a childhood history of physical or sexual abuse as either a perpetrator or a victim. He stated that, although he never started any large fires, on one or two occasions he did set refuse in trash cans on fire.

III. EDUCATIONAL HISTORY:

Educationally, inmate Sundberg has a high school degree, as well an AA degree. He stated that he has spent over ten thousand hours doing data processing during his incarceration period and has significant computer experience.

IV. FAMILY HISTORY:

His father died over 15 years ago. His mother is still alive at age 84. He keeps in contact with her through

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SUNDBERG, ROGER
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PAGE TWO

letters. He has six siblings whom he also maintains contact with. He denied that any of his family members have ever had any significant criminal problems. He feels that depression runs in his family and several members have been afflicted with that disorder. He also has two siblings who have either have or had substance abuse problems. He stated he has a good relationship with all of his family members.

V. PSYCHOSEXUAL DEVELOPMENT AND SEXUAL ORIENTATION:

Inmate Sundberg stated that he is a heterosexual male. He denied any history of sexual aggression.

VI. MARITAL HISTORY:

Inmate Sundberg is currently married, but separated from his wife, and has minimal contact with her. This is his first marriage. He has two sons from this marriage whom he stays in contact with.

VII. MILITARY HISTORY:

Inmate Sundberg denied any history of military service.

VIII. EMPLOYMENT AND INCOME HISTORY:

In the past, he has been employed at several jobs in the community. His most significant job was as a telephone operator, which he did for approximately ten years. When he paroled, he hopes to work with computers, eventually becoming a computer consultant.

IX. SUBSTANCE ABUSE HISTORY:

Inmate Sundberg acknowledges abusing alcohol, stating, "I used alcohol to self-medicate for depression." He acknowledges that this was a significant problem. He also acknowledged the experimental use of drugs, including marijuana and cocaine, although he felt he was never an addict. He does attend Alcoholics Anonymous.

X. PSYCHIATRIC AND MEDICAL HISTORY:

Inmate Sundberg was hospitalized following his commitment offense when, following the shooting of the

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victim, he shot himself in the head, and so he was suicidal at that time. As a result of that injury, he has a seizure disorder, and currently takes the medication Dilantin for that disorder. He also takes the medication Prozac for his depressive disorder. He stated he has not had any seizures for several years.

XI. PLANS IF GRANTED RELEASE:

When he paroles, he hopes to live with his mother. Given the information he provided to me, it would appear his parole plans are viable and his prognosis for community living is very positive.

CLINICAL ASSESSMENT

XII. CURRENT MENTAL STATUS/TREATMENT NEEDS:

Inmate Sundberg appeared his stated age. He was appropriately dressed and groomed. He was coherent, cooperative, calm and alert. His speech, flow of thought and affect were all within the normal range. His intellectual functioning was estimated to be in the above average range. There was no evidence of a thought disorder. Currently, his symptoms of depression are well controlled, in particular by medications. He is in the CCCMS program here at CTF and has been for several years. His judgment appeared to be sound. He showed good insight into his commitment offense.

CURRENT DIAGNOSTIC IMPRESSIONS:

AXIS I: 1) Major Depressive Disorder, in good remission.
 2) Alcohol Abuse, in institutional remission.
 3) Marijuana Abuse, in institutional remission.
AXIS II: No Contributory Personality Disorder.
AXIS V: GAF = 75.

His prognosis is positive for being able to maintain his current mental state in the community upon parole.

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XIII. REVIEW OF LIFE CRIME:

Inmate Sundberg essentially agreed with the description in his Central file of the commitment offense. He stated that he quite stressed at that time, and that should those conditions ever exist again, he would have moved out of the area rather than stay around someone who was threatening him and his wife, as the victim did. He stated he now understands that at that time he thought of the victim as less than a human being, and he now realizes that was a mistake.

XIV. ASSESSMENT OF DANGEROUSNESS:

- A. In consideration of several factors, including his lack of any criminal history or violent criminal history, his lack of any CDC-115 violations or violent CDC-115 violations, as well as his greater maturity, his violence potential within a controlled setting is estimated to be significantly below average relative to this Level II inmate population.
- B. If released to the community, his violence potential is estimated to be no more than the average citizen in the community.
- C. The most significant risk factor for this inmate which would be a precursor to violence would be finding himself in circumstances of great stress. I believe he has learned strategies for dealing with that stress in the future, and I do not expect that he would ever commit another serious crime like this again.

XV. CLINICIAN OBSERVATIONS/COMMENTS/RECOMMENDATIONS:

- A. This inmate is competent and responsible for his behavior. He has the capacity to abide by institutional standards and has done so during his incarceration period.
- B. Inmate Sundberg does suffer from a psychiatric disorder which is well controlled with medications at this time. I believe he could benefit from psychiatric treatment following his parole.

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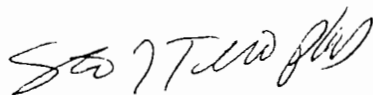
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C. As this man has acknowledged some abuse of alcohol and drugs, I would recommend, upon parole:

- 1) Abstinence from all illegal drugs and alcohol.
- 2) Monitoring.
- 3) Mandatory attendance at self-help groups such as Narcotics Anonymous or Alcoholics Anonymous.


STEVEN J. TERRINI, Ph.D.
Senior Supervising Psychologist
Correctional Training Facility, Soledad

SJT/gmj

d: 05/23/00
t: 05/25/00

SUNDBERG

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gmj

EXHIBIT “F”

INSTITUTIONAL STAFF RECOMMENDATION SUMMARY -

SOURCES OF REPORT: Probation Officer's Report dated 2/24/88, C-File and personal interview.

CONFIDENTIAL INFORMATION: None noted as of 3/17/88.

HOLDS/DETAINERS: None noted as of 3/17/88.

MEDICAL/DENTAL: Full duty no camp. Seizure disorder. DENTAL CLASS: II

PSYCHIATRIC/PSYCHOLOGICAL: Referral indicated due to nature of offense and and psychiatric condition. Dr. T. Freeman, Sr. Psychologist 3/10/88

WORK SKILLS: Claims clerical, and switchboard operator.

NARCOTICS/DRUGS/ALCOHOL: Claims prior abuse of amphetamines, cocaine, lysergic acid, and phencyclidine. He states he used "speed" approximately two months prior to the offense. Drinks alcohol to excess.

ESCAPE HISTORY: None per POR and inmate denies.

ARSON HISTORY: None per POR and inmate denies.

SEX RELATED OFFENSES: None per POR and inmate denies.

ACADEMIC/VOCATIONAL: GPL: 12.7 Shipley Hartford IQ: 105

CASEWORK FOLLOW-UP: Obtain and review CII and FBI arrest reports to update arrest history.

EVALUATION: Sandberg was committed to CDC for seventeen years to life for murder second. No prior arrest history noted.

During the interview he readily admitted committing the instant offense, claiming there had been on-going conflict with the victim and the day of the offense, he had been drinking alcohol and decided to confront the victim while in possession of a weapon. He subsequently shot the victim several times and attempted to commit suicide by shooting himself in the head.

He indicates that while incarcerated, he desires to further his education and obtain a job skill in the computer field.

Since reception, he has not been a custody problem to date and is not viewed as a serious management problem at this time.

RE-ENTRY PLANS: N/A

SANDBERG

D79282

RCC/CIM

3/18/88

bkg

CLASSIFICATION SCORE: 66 CUSTODY LEVEL: IV

INSTITUTION RECOMMENDATION: CCI-IV/CMS-III

REASON FOR OUT OF CLASS RECOMMENDATION: Subject is not viewed as a serious management problem at this time, override to Level III appears to offer adequate security and housing needs.

CORRECTIONAL COUNSELOR I: J.I. Roberts 3/17/88

SUPERVISOR'S RECOMMENDATION: RxCXI-IV. NO PRIOR ARREST HISTORY NOTED

3-21-88

Y.A. CANEDO CCI

3-23-88 cfd

SANDBERG

D79 282

RCC/CIM

3/18/88

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EXHIBIT "G"

LIFE PRISONER EVALUATION REPORT
SUBSEQUENT PAROLE CONSIDERATION HEARING
OCTOBER 2005 CALENDAR

SUNDBERG, ROGER

D-79282

I. COMMITMENT FACTORS:

- A. **Life Crime:** PC 187, Murder 2nd with Use of a Weapon per PC 12022.5(A) from Los Angeles County Case #A474007. Received by CDC on 3/7/88 with a sentence of 17 years to Life and an MEPD of 8/4/98. Victim; Steven Paul Summers, age 40, weapon used: handgun.

1. **Summary of Crime:** The victim was estranged from his wife, Pamela Summers and during their marital difficulties, his wife became involved with the prisoner. At first it was just a matter of talking over her problems but as time went on, they became romantically involved. The victim was physically abusive to her, so when they separated, she had a restraining order placed against him. During the separation, the victim had no place to stay so the victim's wife allowed him to stay in the garage at her residence. While the victim was staying in the garage, he still had the freedom to go in and out of the house as well as in the garage and this irritated the prisoner. On the night of the crime, Sundberg saw the victim moving about the garage and back and forth into the house. The prisoner's house was located next to the victim's residence. The prisoner's rage escalated to a point where he took a pistol inside his house and went to the driveway next door and shot the victim four times. The victim went inside his wife's house and staggered toward the bedroom. The prisoner followed him with the pistol and occasionally struck the victim. At this point, the victim's son, who was in the house, grabbed a plastic baseball bat and tried to stop Sundberg from killing his father. The son was unable to stop the prisoner. Sundberg kept on following the victim into the bathroom where the victim fell into the bathtub. At this point they argued some more and Sundberg shot the victim twice in the head. The victim's son observed the killing. The prisoner then left the victim's house. Before the police arrived to arrest him, he tried to shoot himself in the head.

2. **Prisoner's Version:** For about a year there was an ongoing conflict between my wife Robin and I, and Steve Summers (the victim). His wife Pam and my wife became friends not long after we moved across from her. She was often at our house, sometimes with her son, especially so when

COPY TO INMATE ON
Aug 2, 2005

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she was afraid of Steve. He was a dealer and heavy user of cocaine and amphetamines. When he used too much and when he came down he became very angry and abusive, primarily towards Pam. She told me that this went as far as his tying her up and torturing her, which he acknowledged and then laughed about. He began threatening my wife and me for interfering; we were supportive of Pam and protective of her and her son Jimmy. This became increasingly stressful. Eventually our friendship with Pam developed to include a physical relationship.

My job was stressful; my wife and I were having financial problems and began having a marital crisis over her resumption of a previous affair that I was jealous of. I became severely depressed and suicidal. Pam got a restraining order to keep Steve away, but he sometimes came back and would leave only when the police were called or he was threatened with their being called.

My wife and I were drinking and arguing about her affair and I became utterly despondent; feeling that the marriage my life was based upon was over and therefore my life along with it as well. Walking past my open front door, I saw Steve and became enraged that this continuing threat and stress, which I thought was finally gone, was back again. I got my pistol and extra ammunition and went over to the garage he was in. He ran at me, I shot at him, and we fought. I literally saw red after he punched me in the head a few times. I backed up and reloaded. He ran into the house and into the bathroom and I followed. We fought more and I shot more, and at some point, I shut the door. He looked to me like he died. I think I reloaded at this point, and then I shot myself in the head and blacked out. Bone fragments were later removed from my brain by surgery at USC Medical Center.

3. Aggravating/Mitigating Circumstances:

a. Aggravating Factors:

1. Prisoner had opportunity to cease but continued with crime.
2. Use of Weapon.

b. Mitigating Factors:

1. Prisoner has no history of criminal behavior.

B. Multiple Crime(s): None.

1. Summary of Crime: None.

2. Prisoner's Version: None.

II. PRECONVICTION FACTORS:

- A. Juvenile Record: None.
- B. Adult Convictions: None.
- C. Personal Factors: The defendant was born in Minnesota and was brought to California by his parents in 1962, when he was five years old. He is the youngest of seven siblings. The record shows that there is no other criminality in the family. The prisoner graduated in 1975 from Long Beach Polytechnic High School and attended college courses at Long Beach City College and Cal State Long Beach for two years. He got married to Robin Lee Sundberg and has two children as follows: Nathan Christopher Sundberg and Neil Forrest Sundberg. Inmate Sundberg was employed by AT&T for nine years as a long distance telephone operator with a gross month income of \$1700.00. Since this crime occurred, his wife had to move to Morro Bay to live with her parents because she has no income and no resources to support herself and her children. The prisoner experimented with cocaine, LSD and PCP when he was younger. The last time he used "Speed" was a couple of months before the crime occurred. Inmate Sundberg was drinking beer every day and he believed it became a problem. He had drank two 16 ounce cans of beer before the crime occurred. He claimed that he had an emotional problem and that his family in general had problems with depression including his mother and two sisters.

III. POSTCONVICTION FACTORS:

- A. Special Programming/Accommodations: None.
- B. Custody History: Since his last board hearing, Sundberg has remained at the Correctional Training Facility under Medium A custody with 19 placement points. He has continued his full time assignment working as a computer tech, in the Computer Refurbishing Program. Work supervisor's reports for this period reflect exceptional grades across the board. Supervisor's comments include, "great worker, always on time. His pleasant attitude and generous nature have been a very positive and motivating influence in this program." Also noted was a laudatory chrono dated 5/10/04, detailing his commendable efforts as an Education Office Clerk from August 1993 to September 1993.
- C. Therapy and Self-Help Activities: Sundberg is continuing his studies through Coastline Community College, working towards a degree in possibly, Computer Science. Also noted in the C-File were chronos for completion of the 12 week

Anger Management Course (9/15/04) and ongoing participation in CTF's Alcoholic's Anonymous group through the first quarter of 2005 (3/15/05). Sundberg also states that he is continuing his Buddhist Meditations Studies and his Depression management group therapy programs and will try to have updated letters in time for his board hearing.

D. Disciplinary History:

CDC 115's

None.

CDC 128A's

05/02/98 CTF Non compliance with grooming standards.

- E. Other:** Sundberg was seen by the Board of Prison Terms on 10/28/04 and was denied parole for one year. In addition the board recommended that Sundberg stay disciplinary free and participate in any self help therapy that may be offered by CDC. He has complied with these recommendations.

IV. FUTURE PLANS:

- A. Residence:** Sundberg would like to parole to his mother's house, Ms. Helen Sundberg at 271 Molino Ave #10, Long Beach, CA 90803, telephone number (562) 438-7533.
- B. Employment:** Sundberg has an Associates Degree in general studies, plus he has completed the Vocational Data Processing Program at CTF. In addition he has several years of experience working as a certified electronic technician in both a teaching and employment (custodial) capacity. Also noted in the Central File were numerous classes from Hartnell College in the electronics field and though he does not have a specific job offer, Sundberg is confident that he would be able to provide for his needs if granted a parole date.
- C. Assessment:** Sundberg has been disciplinary free from reception, has taken advantage of available self help therapy/educational opportunities and enjoys substantial support from family and friends.

V. USINS STATUS: Sundberg is a United States Citizen.

VI. SUMMARY:

- A. Prior to release the prisoner could benefit from maintaining his disciplinary free behavior and participating in any self help therapy that may be offered by CDC.
- B. This report is based upon an interview with the prisoner on 6/10/05 lasting approximately one hour(s) and a review of the Central File lasting approximately three hours.
- C. Prisoner was afforded an opportunity to examine his Central File on 6/10/05 which he did per the CDC 128B of the same date.
- D. No accommodation was required per the Armstrong vs. Davis BPT Parole Proceedings Remedial Plan (ARP) for effective communication.

G. Williams 7.14.05
G. Williams Date
Correctional Counselor I

4) R. Leach 7/19/05
R. Leach Date
Correctional Counselor II

4) R. Pope 7/14/05
R. Pope Date
Facility Captain

4) D. S. Levorse 7/27/05
D. S. Levorse Date
Classification and Parole Representative

BOARD OF PRISON TERMS

STATE OF CALIFORNIA

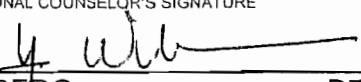
LIFE PRISONER: POSTCONVICTION PROGRESS REPORT

- ☐ DOCUMENTATION HEARING
- ☒ PAROLE CONSIDERATION HEARING
- ☐ PROGRESS HEARING

INSTRUCTIONS

TO CDC STAFF: DOCUMENT EACH 12-MONTH PERIOD FROM THE DATE THE LIFE TERM STARTS TO PRESENT

TO BPT STAFF: FOR EACH 12-MONTH INCREMENT APPLY THE GUIDELINES UNDER WHICH THE PAROLE DATE WAS ORIGINALLY ESTABLISHED, ie., 0-2 MONTHS FOR PBR AND 0-4 MONTHS FOR BPT. SEE BPT §§2290 - 2292, 2410 AND 2439.

POSTCONVICTION CREDIT			REASONS
YEAR	BPT	PBR	
10/04 to Present			<p>PLACEMENT: Remained at the Correctional Training Facility (CTF).</p> <p>CUSTODY: Remains at Medium A.</p> <p>VOC. TRAINING: None noted.</p> <p>ACADEMICS: Enrolled in Coastline Community College working towards a degree in Computer Science.</p> <p>WORK RECORD: Continued full time assignment working as a Computer Tech. Work supervisor's reports for this period reflect exceptional grades across the board.</p> <p>GROUP ACTIVITIES: Completed 12 week Anger Management class (9/15/04), as well as continued attendance at Alcoholic's Anonymous through the first quarter 2005 (3/15/05).</p> <p>PSYCH. TREATMENT: None noted.</p> <p>PRISON BEHAVIOR: Sundberg has been disciplinary free from the beginning</p> <p>OTHER: None.</p>
CORRECTIONAL COUNSELOR'S SIGNATURE			DATE
			7.14.05
SUNDBERG	D79282	CTF-SOLEDAD	OCT/2005

BOARD OF PRISON TERMS

STATE OF CALIFORNIA

LIFE PRISONER: POSTCONVICTION PROGRESS REPORT

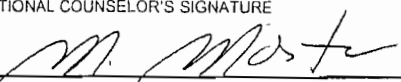
- ☐ DOCUMENTATION HEARING
- ☒ PAROLE CONSIDERATION HEARING
- ☐ PROGRESS HEARING

ADDENDUM

INSTRUCTIONS

TO CDC STAFF: DOCUMENT EACH 12-MONTH PERIOD FROM THE DATE THE LIFE TERM STARTS TO PRESENT

TO BPT STAFF: FOR EACH 12-MONTH INCREMENT APPLY THE GUIDELINES UNDER WHICH THE PAROLE DATE WAS ORIGINALLY ESTABLISHED, ie., 0-2 MONTHS FOR PBR AND 0-4 MONTHS FOR BPT. SEE BPT §§2290 - 2292, 2410 AND 2439.

POSTCONVICTION CREDIT			REASONS
YEAR	BPT	PBR	
7/14/05 to 4/19/06 (Present)			PLACEMENT: CTF. CUSTODY: Medium A. VOC. TRAINING: None. ACADEMICS: Enrolled in Coastline Community College working towards a degree in computer science. WORK RECORD: Continues as a Computer Technician. Work Supervisors performance reports remain excellent. GROUP ACTIVITIES: Continues to participate in AA programs, CDC 128B's dated 10/4/05, 1/3/06 and 4/5/06. PSYCH. TREATMENT: None. PRISON BEHAVIOR: Clear. OTHER: Continues to have excellent behavior patterns.
CORRECTIONAL COUNSELOR'S SIGNATURE			DATE
			4/21/06

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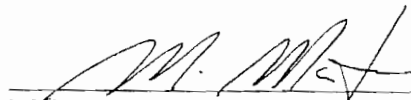
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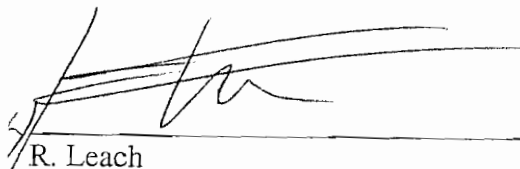
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May 4, 2006

LIFE PRISONER: POSTCONVICTION PROGRESS REPORT

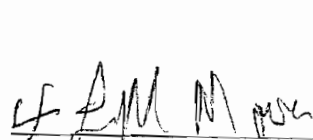
ADDENDUM


M. Morton
Correctional Counselor I

4/21/06
Date

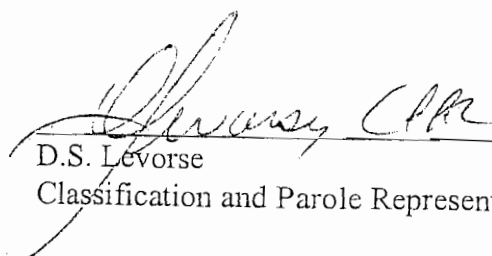

R. Leach
Correctional Counselor II

4/21/06
Date


R. Pope
Facility Captain

4-25-06
Date

FC (w)


D.S. Levorse
Classification and Parole Representative

4-28-06
Date

SUNDBERG

D79287

CTF-SOLEDAD

EXHIBIT "H"

**LIFE PRISONER EVALUATION REPORT
SUBSEQUENT PAROLE CONSIDERATION HEARING
JUNE 2003 CALENDAR**

SUNDBERG, ROGER

D-79282

I. COMMITMENT FACTORS:

A. **Life Crime:** Count 1; Murder 2nd with Use of Firearm, Case No. LA A474007, Sentence: 17 years to life. MEPD: 9/6/98, Victim: Steven Paul Summers, age: unknown. Date received by CDC 3-7-88. Source of information: POR.

1. **Summary of Crime:** The victim was estranged from his wife, Pamela Summers and during their marital difficulties, his wife became involved with the prisoner. At first it was just a matter of talking over her problems but as time went on, they became romantically involved. The victim was physically abusive to her, so when they separated, she had a restraining order placed against him. During the separation, the victim had no place to stay so the victim's wife allowed him to stay in the garage at her residence. While the victim was staying in the garage, he still had the freedom to go in and out of the house as well as in the garage and this irritated the prisoner. On the night of the crime Sundberg saw the victim moving about the garage and back and forth into the house. The prisoner's house was located next to the victim's residence. The prisoner's rage escalated to a point where he took a pistol inside his house and went to the driveway next door and shot the victim four times. The victim went inside his wife's house and staggered toward the bedroom. The prisoner followed him with the pistol and occasionally struck the victim. At this point, the victim's son, who was in the house, grabbed a plastic baseball bat and tried to stop Sundberg from killing his father. The son was unable to stop the prisoner. Sundberg kept on following the victim into the bathroom where the victim fell into the bathtub. At this point they argued some more and subsequently again shot the victim twice in the head. The victim's son observed the killing. The prisoner then left the victim's house. Before the police arrived to arrest him, he tried to shoot himself in the head.
2. **Prisoner's Version:** Sunberg, stated that prior to the commitment offense, there had been an ongoing conflict between him and the victim for close to a year. The victim was his next door neighbor, a heavy cocaine and methamphetamine user. The victim was a heavy user of

SUNDBERG, ROGER

D-79282

CTF-SOLEDAD

JUN/2003

cocaine and then he stopped using it and came down from it, "The victim became abusive and violent towards his own wife, my wife and me. The victim's wife was a close friend to me and my wife. She always came to see us for protection and support." Sundberg said at that time, he himself and his wife had marital problems and one of them was jealousy along with financial problems. Over that long period, there was tension built because the victim had constantly threatened him, his wife, as well as the victim's wife.

When the victim and his wife separated, the victim's wife had a restraining order against him, but then the victim came back to stay in the garage and "His wife did not inform me that she allowed him to stay in the garage." He stated that he himself was drinking that evening. "Because of the stress that had been building up with my own marital problems, I went out into a rage and just blew up."

3. **Aggravating/Mitigating Circumstances:**

a. **Aggravating Factors:**

- During the commission of the crime the inmate had the opportunity to cease but continued with the crime.
- Circumstances of the crime created potential for serious injury to others.

b. **Mitigating Factors:** The prisoner has minimal or no history of criminal behavior.

B. **Multiple Crime(s):** None.

1. **Summary of Crime:** None.

2. **Prisoner's Version:** None.

II. **PRECONVICTION FACTORS:**

A. **Juvenile Record:** None.

B. **Adult Convictions:** None.

C. **Personal Factors:** The defendant was born in Minnesota and was brought to California by his parents in 1962, when he was five years old. He is the youngest

of seven siblings. The record shows that there is no other criminality in the family. The prisoner graduated in 1975 from Long Beach Polytechnic High School and attended college courses at Long Beach City College and Cal State Long Beach for two years. He got married to Robin Lee Sundberg and has two children as follows: Nathan Christopher Sundberg and Neil Forrest Sundberg. Inmate Sundberg was employed by AT&T for nine years as a long distance telephone operator with a gross month income of \$1700.00. Since this crime occurred, his wife had to move to Morro Bay to live with her parents because she has no income and no resources to support herself and her children. The prisoner was using cocaine, LSD and PCP when he was younger. The last time he used "Speed" was a couple of months before the crime occurred. Inmate Sundberg was drinking beer ever day and he believed it became a problem. He had drank two 16 ounce cans of beer before the crime occurred. He claimed that he had an emotional problem and that his family in general had problems with depression including his mother and two sisters.

III. POSTCONVICTION FACTORS:

- A. Special Programming/Accommodations: None.
- B. Custody History: Documents from the previous hearing have been considered and that information remains valid. During the period of time since the last hearing, Sundberg has remained at CTF. His custody remains MED A and zero points. He continued to be assigned as a Instructor's Aide in the Vocational Data Processing Program until 5/26/01 at which time he started as a clerk for the Education Department. On 1/30/03, he started as a Teacher's Aide for the Vocational Computer Repair Program. Noted: He has received excellent work reports from his supervisors over this time frame.
- C. Therapy and Self-Help Activities: CDC-128B's dated 4/5/01, 7/10/01, 10/2/01, 1/11/02 and 4/11/02 for attending A.A.
- D. Disciplinary History: Sundberg has remained disciplinary-free.
- E. Other: The panel recommendations from the prior Board hearing was denied parole for 2 years, remain disciplinary-free and participate in self-help. Sundberg has accomplished the above recommendations.

IV. FUTURE PLANS:

SUNDBERG, ROGER

D-79282

CTF-SOLEDAD

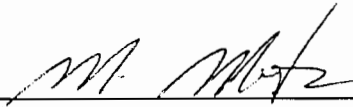
JUN/2003

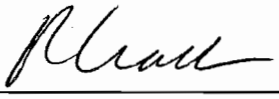
- A. **Residence:** Sundberg plans to live in the county of commitment and reside with his mother. His mother is Helen Sundberg, 271 Molivo Avenue #10, Long Beach, CA 90803, Tel: (310) 438-7533.
- B. **Employment:** Subject said he doesn't have any firm job offers, although he will try to obtain employment in the computer field.
- C. **Assessment:** Sundberg has a great deal of knowledge in Computer Programming and should be able to find a job in this field.

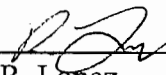
V. **USINS STATUS:** N/A.

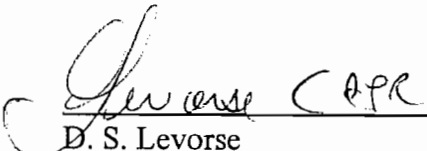
VI. **SUMMARY:**

- A. Considering the commitment offense, prior record and prison adjustment, this writer believes the prisoner would probably pose a low degree of threat to the public if released from prison at this time. Sundberg, while incarcerated has performed an exceptional program, with his work record as well as his disciplinary record. He has participated in A.A. and many other self-help programs over the years. He states he currently is participating in a meditation group and a depression group and he asked his instructor for documentation. Sundberg has changed over time and it's my opinion that his risk to society has been reduced.
- B. Prior to release the prisoner could benefit from continuing to perform the program he is currently participating in, with no further recommendations.
- C. This report is based upon an interview with the prisoner on 2/27/03 lasting approximately 1 hour and numerous contacts with him since he was received in CTF in 1988.
- D. Sundberg was afforded an opportunity to examine his Central File on 2/27/03. He spent 30 minutes reviewing it.
- E. No accommodation was required per the Armstrong vs. Davis BPT Parole Proceedings Remedial Plan (ARP) for effective communication.

 6/10/03
M. Morton Date
Correctional Counselor I

 6/10/03
R. Leach Date
Correctional Counselor II

 6-10-03
R. Lopez Date
Facility Captain

 6.11.03
D. S. Levorse Date
Classification and Parole Representative

SUNDBERG, ROGER

D-79282

CTF-SOLEDAD

JUN/2003

BOARD OF PRISON TERMS

STATE OF CALIFORNIA

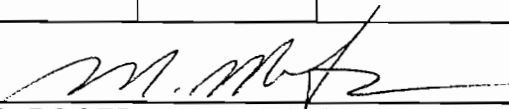
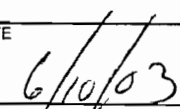
LIFE PRISONER: POSTCONVICTION PROGRESS REPORT

- ☐ DOCUMENTATION HEARING
- ☒ PAROLE CONSIDERATION HEARING
- ☐ PROGRESS HEARING

INSTRUCTIONS

TO CDC STAFF: DOCUMENT EACH 12-MONTH PERIOD FROM THE DATE THE LIFE TERM STARTS TO PRESENT

TO BPT STAFF: FOR EACH 12-MONTH INCREMENT APPLY THE GUIDELINES UNDER WHICH THE PAROLE DATE WAS ORIGINALLY ESTABLISHED, ie., 0-2 MONTHS FOR PBR AND 0-4 MONTHS FOR BPT. SEE BPT §§2290 - 2292, 2410 AND 2439.

POSTCONVICTION CREDIT			REASONS
YEAR	BPT	PBR	
5/25/01 to 5/26/02			<p>PLACEMENT: CTF.</p> <p>CUSTODY: MED A.</p> <p>VOCATIONAL TRAINING: None noted.</p> <p>ACADEMICS: None noted.</p> <p>WORK RECORD: Sundberg worked as an Instructor's Aide in the Vocationally Data processing Program till 7/01, then he started as a clerk for the Educational Program. He received excellent grades for both jobs.</p> <p>GROUP ACTIVITIES: CDC-128B's dated 4/7/01, 7/10/01, 10/2/01, 10/2/01. 1/11/02 and 4/11/02 and 4/11/02 for participating in AA.</p> <p>PSYCH. TREATMENT: None noted.</p> <p>PRISON BEHAVIOR: Remained disciplinary-free this period.</p> <p>OTHER: N/A.</p>
			DATE 
SUNDBERG, ROGER	D-79282	CTF-SOLEDAD	JUNE/2003

CONTINUATION SHEET: LIFE PRISONER : POSTCONVICTION PROGRESS REPORT

POSTCONVICTION CREDIT			REASONS
YEAR	BPT	PBR	
5/27/02 to 2/28/03 (Present)			<p>PLACEMENT: CTF.</p> <p>CUSTODY: MED A.</p> <p>VOCATIONAL TRAINING: None noted.</p> <p>ACADEMICS: None noted.</p> <p>WORK RECORD: Continue to work as a clerk for the education program, until 1/30/03. He then started to work as a Teacher's Aide for the Vocational Computer Repair Program where he is at presently.</p> <p>GROUP ACTIVITIES: None noted.</p> <p>PSYCH. TREATMENT: None noted.</p> <p>PRISON BEHAVIOR: Remained disciplinary-free this period.</p> <p>OTHER: Sundberg states he participates in a mediation group and a depression group. He has ask both instructors for chronos but at present not in file.</p>

ORDER:

☐ BPT date advanced by months.

☐ BPT date affirmed without change.

☐ PBR date advanced by months.

☐ PBR date affirmed without change.

SPECIAL CONDITIONS OF PAROLE:

☐ Previously imposed conditions affirmed.

☐ Add or modify

☐ Schedule for Progress Hearing on appropriate institutional calendar

SUNDBERG, ROGER

D-79282

CTF-SOLEDAD

JUN/2003

- ☐ DOCUMENTATION HEARING
- ☒ PAROLE CONSIDERATION HEARING
- ☐ PROGRESS HEARING

ADDENDUM

INSTRUCTIONS

TO CDC STAFF: DOCUMENT EACH 12-MONTH PERIOD FROM THE DATE THE LIFE TERM STARTS TO PRESENT
TO BPT STAFF: FOR EACH 12-MONTH INCREMENT APPLY THE GUIDELINES UNDER WHICH THE PAROLE DATE WAS ORIGINALLY
ESTABLISHED, ie., 0-2 MONTHS FOR PBR AND 0-4 MONTHS FOR BPT. SEE BPT §§2290 - 2292, 2410 AND 2439.

POSTCONVICTION CREDIT			REASONS
YEAR	BPT	PBR	
5/00 to 5/01			<p>PLACEMENT: Sundberg remained at the Correctional Training Facility (CTF).</p> <p>CUSTODY: His custody remained at Medium A.</p> <p>CLASSIFICATION SCORE: His classification score remained at zero points.</p> <p>ACADEMIC: None noted.</p> <p>WORK: Noted under "Vocation".</p> <p>VOCATION: Sundberg was assigned to Vocational Data Processing-Instructor's Aide. He received three Education Progress Reports dated 7-5-00, 10-3-00, and 1-2-01 reflecting "satisfactory" ratings.</p> <p>GROUP ACTIVITIES: Sundberg received four chronos dated 5-24-00, 10-25-00, 1-4-01, and 4-5-01 for his participation in Alcoholics Anonymous. He received three chronos dated 5-24-00, 10-25-00, and 1-4-01 for his position as a Vice Chairman of Alcoholics Anonymous.</p> <p>PSYCH TREATMENT: Sundberg met the inclusion criteria for Clinical Case Management level of care.</p> <p>PRISON BEHAVIOR: Sundberg remained disciplinary-free during this period.</p>
CORRECTIONAL COUNSELOR'S SIGNATURE			DATE
m. Aguirre			5/25/01

SUNDBERG, ROGER

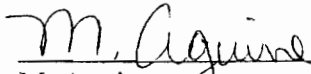
D79282

CTF

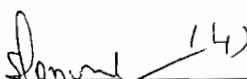
JUL/2000

LIFE PRISONER: POSTCONVICTION PROGRESS REPORT
JUL/2000

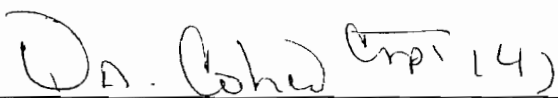
ADDENDUM




M. Aguirre
Correctional Counselor I



G. Severino
Correctional Counselor II



R. Pope
Facility Captain



S.L. Hill
Classification and Parole Representative(A)

SUNDBERG, ROGER

D79282

CTF

JUL/2000

EXHIBIT "I"

LIFE PRISONER EVALUATION REPORT
SUBSEQUENT PAROLE CONSIDERATION HEARING
JULY 2004 CALENDAR

SUNDBERG, ROGER DEANE

D-79282

I. COMMITMENT FACTORS:

A. **Life Crime:** PC187, Murder 2nd degree with PC12022.5, Use of Weapon in commission of a felony, to wit a pistol. Los Angeles County Superior Court Case #A-474007. Term: 15 years to life for PC187. 2 years for PC 12022.5 to run consecutive. MEPD: 8/4/98. Victim: Steven Paul Summers. Age: Unknown.

1. **Summary of Crime:** All relevant documents from the previous hearing.

2. **Prisoner's Version:** Remains the same as stated in the previous hearing.

3. **Aggravating/Mitigating:**

a. **Aggravating Factors:** Remains the same as stated in the previous hearing.

b. **Mitigating Factors:** Remains the same as stated in the previous hearing.

B. **Multiple Crime(s):** N/A

1. **Summary of Crime:** N/A

2. **Prisoner's Version:** N/A

II. PRECONVICTION FACTORS:

A. **Juvenile Record:** Documents from the previous hearing have been considered and that information remains the same.

B. **Adult Convictions:** Documents from the previous hearing have been considered and that information remains the same.

SUNDBERG, ROGER D

D-79282

CTF-SOLEDAD

JULY 2004

- C. Personal Factors: Documents from the previous hearing have been considered and that information remains valid.

III. POSTCONVICTION FACTORS:

- A. Special Programming/Accommodations: None.
- B. Custody History: Documents from the previous hearing(s) have been considered and that information remains valid. Since his last Board of Prison Terms (BPT) hearing on 7/31/03 in which his parole was denied for one (1) year, inmate Sundberg has remained at the Correctional Training Facility (CTF), in the general population (GP). He has retained his custody at Medium A with a Preliminary/behavior classification score of 0 and a Mandatory Minimum Placement score of 19 (the change is due to the revised classification scoring system effective 10/15/02).
- C. Therapy and Self-Help Activities: Refer to the Postconviction Progress Report for details.
- D. Disciplinary History: Disciplinary free since 1998.
- E. Other: N/A

IV. FUTURE PLANS:

- A. Residence: Inmate Sundberg intends to reside with his mother, Helen Sundberg and sister, Lou Sundberg at 271 Molino Avenue #10, Long Beach, California, 90803 with telephone number 310-438-7533, if and when he is paroled.
- B. Employment: Inmate Sundberg plans to acquire employment in the Data Processing and Computer Repair industry although he will accept any type of employment in the interim, if and when he is paroled.
- C. Assessment: Refer to Section VI, Summary.

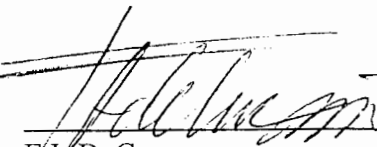
- V. USINS STATUS: Inmate Sundberg is a United States citizen born on 7/31/57 in Minnesota.


VI. SUMMARY


- A. Considering the commitment offense, prior record, and prison adjustment,

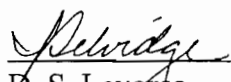
the writer believes the prisoner would probably pose a low degree of threat to the public at this time, if released from prison. Inmate Sundberg has been incarcerated for over 16 years, he has matured and shown marked progress towards maintaining an overall positive attitude. He has been disciplinary free since 6/98. Additionally, he has acquired an employable trade through CTF's Vocational Data Processing program. Also, he has an Associate's Degree in General Education. Finally, he has achievable and realistic parole plans.

- B. Prior to release, the prisoner could benefit from:
 - 1. Remain disciplinary free;
 - 2. Continue to participate in self-help programs, when available.
- C. This report is based on 4 hours of Central file research, an interview with inmate Sundberg and incidental contact with the prisoner during this period of review.
- D. Inmate Sundberg reviewed his Central file per Olson on 4/23/04.
- E. No accommodation was required per the Armstrong vs. Davis BPT Parole Proceedings Remedial Plan (ARP) for effective communication.

 7-13-04
F.I. DeGuzman Date
Correctional Counselor I

4/  7-15-04
R. Leach Date
Correctional Counselor II

 7-21-04
R. Pope Date
Facility Captain

4/  7-22-04
D. S. Leverage Date
Classification and Parole Representative

BOARD OF PRISON TERMS

STATE OF CALIFORNIA

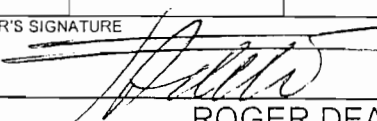
LIFE PRISONER: POSTCONVICTION PROGRESS REPORT

- ☐ DOCUMENTATION HEARING
- ☒ PAROLE CONSIDERATION HEARING
- ☐ PROGRESS HEARING

INSTRUCTIONS

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POSTCONVICTION CREDIT			REASONS
YEAR	BPT	PBR	
3/1/03 to 2/29/04			<p>PLACEMENT: Remains housed at CTF, in the GP.</p> <p>CUSTODY: Remains at Medium A.</p> <p>ACADEMIC: Remains assigned as a Teacher's Aide until 8/6/03, receiving satisfactory assessment per the Education Progress Report (CDC128-E) dated 6/26/03. Also, inmate Sundberg is currently enrolled in an Independent Study Program through Coastline Community College for the semester ending December 22, 2004.</p> <p>WORK: Assigned on 9/18/03 to Waste Control.</p> <p>VOCATION: None noted this period.</p> <p>GROUP ACTIVITIES: Laudatory chrono for participation in the Alcoholics Anonymous (AA) program for the 3rd quarter ending 9/03 and 4th quarter ending 12/03 per CDC128-B dated 11/3/03 and 12/18/03.</p> <p>PSYCH TREATMENT: Regular participant in the weekly Group Therapy (Depression Management) per CDC128-C dated 3/4/03.</p> <p>PRISON BEHAVIOR: Disciplinary free this period.</p> <p>OTHER: N/A.</p>
CORRECTIONAL COUNSELOR'S SIGNATURE			DATE
F. I. DeGUZMAN 			4/30/04

SUNDBERG,

ROGER DEANE

D79282

JULY, 2004

CONTINUATION SHEET: LIFE PRISONER : POSTCONVICTION PROGRESS REPORT

POSTCONVICTION CREDIT			REASONS
YEAR	BPT	PBR	
3/1/04 to 4/30/04 (Present)			PLACEMENT: Remains housed at CTF, in the GP. CUSTODY: Remains at Medium A. ACADEMIC: Remains enrolled in an Independent Study Program through Coastline Community College for the semester ending December 22, 2004. WORK: Remains assigned to Waste Control until 4/6/04. VOCATION: Assigned as a Computer Technician in the Vocational Computer Repair program on 4/6/04. GROUP ACTIVITIES: Laudatory chrono for participation in the AA program for 1 st quarter ending 3/04. PSYCH TREATMENT: None noted this period. PRISON BEHAVIOR: Disciplinary free this period. OTHER: N/A.

ORDER:

☐ BPT date advanced by
☐ PBR date advanced by

months.
months.

☐ BPT date affirmed without change.
☐ PBR date affirmed without change.

SPECIAL CONDITIONS OF PAROLE:

☐ Previously imposed conditions affirmed.
☐ Add or modify

☐ Schedule for Progress Hearing on appropriate institutional calendar

SUNDBERG,

ROGER DEANE

D79282

JULY, 2004

EXHIBIT "J"

BOARD OF PRISON TERMS

STATE OF CALIFORNIA

LIFE PRISONER: POSTCONVICTION PROGRESS REPORT

- ☐ DOCUMENTATION HEARING
- ☐ PAROLE CONSIDERATION HEARING
- ☐ PROGRESS HEARING

INSTRUCTIONS

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TO BPT STAFF: FOR EACH 12-MONTH INCREMENT APPLY THE GUIDELINES UNDER WHICH THE PAROLE DATE WAS ORIGINALLY ESTABLISHED, i.e., 0-2 MONTHS FOR PBR AND 0-4 MONTHS FOR BPT. SEE BPT §§2290- 2292, 2410 AND 2439.

POSTCONVICTION CREDIT			REASONS
YEAR	BPT	PBR	
6/1/94 to 6/1/95	-		Sundberg was received at RCC-CIM for processing on 3/7/88 from L.A. County Jail subsequent to his conviction for Murder 2nd. He received a sentence of 15 years to life plus 2 years enhancement for use of a weapon. Remained at CTF-Central during this period under Medium A custody in the general population. He is on A1A status having continued his assignment at Vocational Data Processing. On 6/1/94 Sundberg graduated from Hartnell College (Cum Laude) with an Associate of Arts Degree in General Education. He also received during this period 30 vocational certification units in Vocational Data Processing. He received a Laudatory Chrono dated 4/28/95 for his support and participation in the Children's Walk-A-Thon on April 21, 1995. He is disciplinary free during this period.
6/1/95 to Present			Remained at CTF-Central under Medium A custody in the general population. Continued his job assignment in Vocational Data Processing. Received 20 vocational certification units in Vocational Data Processing. Remained an active member of AA since 1989. Disciplinary free during this period.

CORRECTIONAL COUNSELOR SIGNATURE <i>Y. K. Jones</i>		DATE 5-15-97
--	--	-----------------

NAME	CDC NUMBER	INSTITUTION	CALENDAR	HEARING DATE
SUNDBERG, R.	D79282	CTF	7/97	

EXHIBIT "K"

BOARD OF PRISON TERMS
LIFE PRISONER DECISION FACE SHEET

STATE OF CALIFORNIA

PERIOD OF CONFINEMENT

(RECORDS OFFICER USE ONLY)

	YR	MO	DAY
Adjusted Period of Confinement.....	+88	03	07
Date Life Term Begins.....			
At Large Time.....	+		
PAROLE DATE.....	=		

MISCELLANEOUS

Parole denied
two (2) years.

Panel recommendations and requests:

Become ☒ Remain disciplinary free.
Work towards reducing his/her custody level.
Upgrade ☐ vocationally ☐ educationally
☒ Participate in ☒ self-help (and) ☐ therapy.
Transfer to ☐ Cat. X ☐ Cat. T.

PENAL CODE SECTION 3042 NOTICES ☒ SENT (Date) 04/20/01

COMMITMENT OFFENSE

P187 W/12022.5

MURDER 2ND W/USE OF HANDGUN

(Code Section)

(Title)

A474007

01

(Case Number)

(Count Number)

Date Received by CDC 03/07/88	Date Life Term Begins 03/07/88	Controlling MEPD 08/04/98
Type of Hearing <input type="checkbox"/> INITIAL <input checked="" type="checkbox"/> SUBSEQUENT (Hearing No.) #1	If Subsequent Hearing, Date of Last Hearing 07/24/97	

Department Representative
JOY KELLAM TYLER, C & PR

Counsel for Prisoner JEFF CHAMPLIN	Address
District Attorney Representative KAHANA, TAL	County LOS ANGELES

PAROLE HEARING CALENDAR

This form and the panel's statement at the conclusion of the hearing constitute a proposed decision and order of the Board of Prison Terms. The decision becomes effective when issued following the decision review process.

By:

Presiding (Name) <i>Sharon Lawin</i>	Date
Concurring (Name) <i>Robert Hamm</i>	Date <i>06/06/01</i>
Concurring (Name) <i>D. Willet</i>	Date

NAME SUNDBERG, ROGER	CDC NUMBER D79282	INSTITUTION CTF	CALENDAR 07/00	HEARING DATE 06/06/01
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CALIFORNIA BOARD OF PRISON TERMS

D E C I S I O N

PRESIDING COMMISSIONER LAWIN: We're back on

record and all parties have returned to the hearing

room in the hearing for Roger Sundberg. The Panel

reviewed all the information received from the

public and relied on the following circumstances in

concluding that the prisoner is not suitable for

parole and would pose an unreasonable risk of danger

to society or a threat to public safety, if released

from prison. The commitment offense was carried out

in an especially cruel and callous manner. It was

the shooting death of Steven Summers, who was the

inmate's next door neighbor. The inmate became

enraged over, apparently a number of different

issues that were happening in his life at the time.

He went next door to Mr. Summers' residence and

proceeded to scuffle with him, to enter into a

confrontation with him in the garage. They then

moved. The inmate followed the victim into the

residence, ultimately to the bathroom of the home,

where the inmate shot him again, several times. And

this offense was carried out in an especially -- in

an exceptionally callous disregard for human

suffering. The -- as I indicated, the inmate not

only shot him in the early stages of the

ROGER SUNDBERG D-79282 DECISION PAGE 1 6/6/01

1 ~~confrontation but then shot him again after the~~
2 victim had apparently fallen into the bathtub.
3 And this also involved the victim's young son,
4 attempting to stop the inmate from killing his
5 father and undoubtedly caused severe trauma to
6 this young boy. And the prisoner has not
7 sufficiently participated in beneficial self-help
8 programs. In terms of parole plans, the inmate
9 does have realistic parole plans for residence.
10 He has good family support. He also has
11 marketable skills in computer or data processing.
12 He's quite knowledgeable in this area, however, he
13 does not yet have acceptable employment plans. We
14 do know that he has been attempting to secure
15 employment, or interviews, and thus far has been
16 unsuccessful. The hearing Panel notes that
17 responses to PC 3042 notices indicate opposition
18 to a finding of parole suitability, specifically
19 from the District Attorney's Office, as well as
20 from the Los Angeles County Sheriff's Department.
21 The inmate's counselor, D. Wadleigh, that's W-A-D-
22 L-E-I-G-H, believes he would pose an unpredictable
23 degree of threat to the public at this time. And
24 the Panel finds that the prisoner needs continued
25 therapy in order to face, discuss, understand and
26 cope with stress in a nondestructive manner. And
27 ROGER SUNDBERG D-79282 DECISION PAGE 2 6/6/01

1 until further progress is made, he continues to be
2 unpredictable and a threat to others.
3 Nevertheless, he has much to be commended for and
4 the fact that he has been disciplinary-free. It
5 is pretty astonishing to find an inmate who has no
6 115s and Mr. Sundberg has no 115s. He has only
7 one 128(a) counseling chrono and that is for
8 grooming. He also has upgraded educationally by
9 acquiring his AA at some point, has his vocation
10 in Data Processing, has some time in Voc.
11 Drafting. He also has participated for a great
12 number of years in AA. In the past, he has
13 participated also in Life Skills, Anger
14 Management, Stress Management and a program called
15 Conducts Helping Adults called CHANGE, and he has
16 become an instructor in the Infectious Disease
17 Program. He has received a number of laudatory
18 letters from his instructors and/or coworkers
19 regarding his work. However, these positive
20 aspects of his behavior do not yet outweigh the
21 factors of unsuitability. This is a two-year
22 denial. In a separate decision, the hearing Panel
23 finds it is not reasonable to expect that parole
24 would be granted at a hearing during the next two
25 years. The specific reasons for this finding are
26 as follows: The murder of Steven Summers was
27 ROGER SUNDBERG D-79282 DECISION PAGE 3 6/6/01

1 carried out in an especially cruel manner. The
2 inmate went to the residence of Mr. Summers, who
3 was his next door neighbor, proceeded to shoot him
4 and got into a scuffle or a physical altercation
5 that -- that continued into the house. Mr.
6 Sundberg followed Mr. Summers into the house and
7 shot him again several times after he had gone
8 into the bathroom of the home. This was partially
9 witnessed by the young son of the victim and he
10 attempted to intercede at some point and was
11 unsuccessful. And this offense was clearly
12 carried out in a manner which demonstrates a
13 callous disregard for human suffering. And the
14 motive for the crime is very trivial, in that the
15 inmate took it upon himself to apparently punish
16 this man for wrongs that the inmate believed that
17 he had carried out. The inmate was enraged over a
18 number of issues. Some were related to Mr.
19 Summers and others not. The prisoner has a
20 history of misconduct which included use of drugs,
21 amphetamines, cocaine, LSD, and PCP, although it
22 seems that primarily he was involved in the
23 separate abuse of alcohol. And the prisoner has
24 not completed the necessary programming which is
25 essential for his adjustment and needs additional
26 time to gain such programming. Specifically, in
27 ROGER SUNDBERG D-79282 DECISION PAGE 4 6/6/01

1 my opinion, Mr. Sundberg, you have come a long way
2 and I hope that there will be something available
3 for you in terms of self-help and therapy in the
4 next two years that will help you progress even
5 further. I see, just in the transcripts from the
6 last hearing and today's hearing, a tremendous
7 amount of growth. And I hope that you'll be able
8 to maintain that and partake of any programs that
9 will assist you in further looking into your
10 participation in this life crime, the positive
11 factors for your participation and continue to
12 provide you with personal growth. The Board
13 recommends during the next two years that you
14 remain disciplinary-free, and based on your
15 record, I have no doubt that that will be the
16 case. And participate in whatever self-help or
17 therapy that becomes available to you. And other
18 than that, you're doing a great program. It's
19 just a horrendous crime, as you well know, and we
20 wish you good luck. Commissioner Welch?

21 **COMMISSIONER WELCH:** Good luck to you, Sir.

22 **PRESIDING COMMISSIONER LAWIN:** Commissioner
23 Harmon?

24 **DEPUTY COMMISSIONER HARMON:** Nothing
25 further. Good luck to you.

26 **PRESIDING COMMISSIONER LAWIN:** Mr.

27 **ROGER SUNDBERG D-79282 DECISION PAGE 5 6/6/01**

68

1 Sundberg, that concludes the hearing. This is
2 your copy of the tentative decision and the time
3 is 12:30.

4 --o0o--

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25 PAROLE DENIED TWO YEARS

26 EFFECTIVE DATE OF THIS DECISION JUN 29 2001


27 ROGER SUNDBERG D-79282 DECISION PAGE 6 6/6/01

CERTIFICATE AND
DECLARATION OF TRANSCRIBER

I, KARIN R. LEWIS, a duly designated transcriber, CAPITOL ELECTRONIC REPORTING, do hereby declare and certify under penalty of perjury that I have transcribed tape(s) which total two in number and cover a total of pages numbered 1 through 68, and which recording was duly recorded at CORRECTIONAL TRAINING FACILITY, at SOLEDAD, CALIFORNIA, in the matter of the SUBSEQUENT PAROLE CONSIDERATION HEARING of ROGER SUNDBERG, CDC No. D-79282, on JUNE 6th, 2001, and that the foregoing pages constitute a true, complete, and accurate transcription of the aforementioned tape(s) to the best of my ability.

I hereby certify that I am a disinterested party in the above-captioned matter and have no interest in the outcome of the hearing.

Dated June 24th, 2001, at Sacramento County, California.


Karin R. Lewis
Transcriber
CAPITOL ELECTRONIC
REPORTING

BOARD OF PRISON TERMS

STATE OF CALIFORNIA

LIFE PRISONER: PAROLE CONSIDERATION
PROPOSED DECISION (BPT §2041)I. ☒ PAROLE DENIED*Two (2) Years*

If this proposed decision denying parole is approved, the Board will send you a copy of the approved decision, including the reasons for denial of parole, within 30 days of the hearing.

II. ☐ PAROLE GRANTED

A. Base Period of Confinement Months

Case No.	Count No.	Offense

B. Firearm Enhancement.....+ Months

C. Other Crimes Total+ Months

Case No.	Count No.	Offense mos.

Case No.	Count No.	Offense mos.

Case No.	Count No.	Offense mos.

D. Total Term= Months

E. Postconviction Credit From To
(Date) (Date) Months

F. Total Period of Confinement..... = Months

The period of confinement indicated is a tentative decision proposed by this panel. The decision will be reviewed pursuant to BPT §2041, and, if approved, a copy of the approved decision will be sent to you within 30 days. At that time appropriate pre-prison credits will be applied and a parole release date computed.

You will not engage in any conduct specified in BPT §2451. Such conduct may result in rescission or postponement of your parole date.

III. If the proposed decision denying or granting parole is disapproved, you will receive a copy of the proposed decision and the reasons for disapproval. You will then receive a copy of the modified decision or will be scheduled for a new hearing, as appropriate.

PANEL HEARING CASE

Name <i>Sharon Lawin</i>	Date
Name <i>Robert Ham</i>	Date <i>06/06/01</i>
Name <i>B. Wilk</i>	Date
NAME SUNDBERG, ROGER	CDC NUMBER D79282
INSTITUTION CTF-SOLEDAD	HEARING DATE 06-04-01 <i>06</i>

BOARD OF PRISON

STATE OF CALIFORNIA

LIFE PRISONER PAROLE CONSIDERATION WORKSHEET☐ INITIAL HEARING☒ SUBSEQUENT HEARINGPRISONER'S NAME
SUNBERG, ROGERCDC NUMBER
D79282DATE OF HEARING
WEDNESDAY, JUNE 6, 2001 AT 9:30 AMLOCATION
CORRECTIONAL TRAINING FACILITY - SOLEDAD**LEGAL STATUS**DATE RECEIVED
03/07/88DATE LIFE TERM STARTS (IF DIFFERENT)
03/07/88COUNTY
LOS ANGELESOFFENSE
MURDER 2ND W/USE OF HANDGUNCASE NUMBER
A474007COUNT NUMBER(S)
01PENAL CODE SECTIONS(S) VIOLATED
P187 2ND W/12022.5TERMS
15 TO LIFE PLUS 2 YRSMEPD
08/04/98**OTHER COMMITMENT OFFENSES OR STAYED COUNTS**

STAYED	OFFENSE	CODE SECTION	COUNTY	CASE NUMBER	COUNT NUMBER
<input type="checkbox"/>					
<input type="checkbox"/>					
<input type="checkbox"/>					

PRESENT AT HEARINGPANEL MEMBER
LAWINPANEL MEMBER
HARMONPANEL MEMBER
WELCH

OTHERS PRESENT

☐ PRISONER (IF ABSENT, WHY)☒ ATTORNEY **J. CHAMPLIN**☒ DEPUTY D. A. **T. KAHANA** COUNTY OF **LA**☐ OTHERS:**STATEMENT OF FACTS**☐ THE HEARING PANEL INCORPORATED BY REFERENCE FROM THE DECISION OF THE HEARING HELD

ON _____, PAGES _____ THROUGH _____

☒ THE STATEMENT OF FACT IS☒ QUOTED FROM THE BOARD REPORT, DATED **July 1997**, PAGE(S) **1**☐ QUOTED FROM THE PROBATION OFFICER'S REPORT, PAGE(S) _____☐ QUOTED FROM THE COURT OPINION, PAGE(S) _____

EXHIBIT "L"

PSYCHOLOGICAL EVALUATION FOR THE BOARD OF PRISON TERMS
PAROLE CONSIDERATION HEARING
JULY 1997 CALENDAR

CORRECTIONAL TRAINING FACILITY, SOLEDAD
APRIL 29, 1997

This is the third psychological evaluation for the Board of Prison Terms on inmate Roger Sundberg. This report is the product of a personal interview, conducted on 04/29/97, as well as a review of his Central file and unit health record. I have known this inmate, as I am his correctional case manager for his CCCMS program.

Inmate Sundberg was convicted of second degree murder for an incident in 1987. He described the circumstances surrounding the crime as a time when he was very depressed and despondent over his relationship with his wife and his involvement with another woman and her husband, the victim.

This inmate has not had any CDC-115 or CDC-128 violations.

He has attended Alcoholics Anonymous since 1988 and admits that he had some problems in the past with alcohol and other drugs. He has attended Dr. Bakeman's "Life Skills" group in the past. He is currently in the CCCMS program and is taking antidepressant medications. His depression is currently very stable and he appears to be functioning quite well in the general population. Educationally, he completed high school and has also achieved an AA degree. He is also currently functioning as a teacher's aide in the education program. Vocationally, he has experience with data processing. If paroled, his plans include living with his mother, trying to find a computer-related job, attending school to further his education, and hopefully eventually to live near his children.

MENTAL STATUS EXAMINATION: Inmate Sundberg is a 39-year-old, white male who of average build who appeared his stated age. He was appropriately dressed and groomed. He was cooperative, calm and alert. His speech, flow of thought and affect were all normal. There is no evidence of a thought disorder. He showed good insight into his commitment offense and his judgment is estimated to be good.

SUNDBERG

D-79282

CTF-NORTH

04/28/97

gj

SUNDBERG, ROGER
CDC NUMBER: D-79282
PAGE TWO

DIAGNOSTIC IMPRESSIONS:

AXIS I: 1) Major depression, recurrent, in remission.
2) Alcohol abuse.
3) Marijuana abuse.
AXIS II: Impulsive traits, improved.
AXIS III: Seizure disorder.

CONCLUSIONS AND RECOMMENDATIONS:

- 1) This man is competent and responsible for his behavior. He has the capacity to abide by institutional standards and has done so during his incarceration.
- 2) Regarding violence potential, given his lack of criminal history and his lack of CDC violations, as well as his greater maturity, his violence potential is estimated to be below average relative to this inmate population.
- 3) Regarding substance abuse, self-help group attendance, as well as drug screening, should be mandatory conditions of parole.
- 4) This inmate could benefit from parole outpatient clinic treatment, as well as medications after parole. He will continue on the CCCMS program during his incarceration period.



STEVEN J. TERRINI, Ph.D.
Staff Psychologist
Correctional Training Facility, Soledad

SJT/gj

d: 04/29/97
t: 04/30/97

EXHIBIT "M"

BOARD OF PRISON TERMS

STATE OF CALIFC

LIFE PRISONER DECISION FACE SHEET**PERIOD OF CONFINEMENT**

(RECORDS OFFICER USE ONLY)

YR MO

Adjusted Period of Confinement
 Date Life Term Begins + 88 08
 At Large Time +
 PAROLE DATE =

MISCELLANEOUS

3 YR. DENIAL

Panel recommendations and requests:

____ Become ____ ☒ Remain disciplinary free.
 ____ Work towards reducing his/her custody level.
 ____ ☒ Upgrade ____ ☒ vocationally ____ educationally
 ____ ☒ Participate in ____ ☒ self-help (and) ____ ☒ the
 ____ Transfer to ____ Cat. X ____ Cat. T.

PENAL CODE SECTION 3042 NOTICES ☒ SENT (Date) 06-02-97

COMMITMENT OFFENSE

PC 187 w/12022.5
(Code Section)MURDER 2ND w/use F'Arm
(Title)

A474007

01

(Case Number)

(Count Number)

Date Received by CDC 03-07-88	Date Life Term Begins 08-04-88	Controlling MEPD 08-04-98
----------------------------------	-----------------------------------	------------------------------

Type of Hearing <input checked="" type="checkbox"/> INITIAL <input type="checkbox"/> SUBSEQUENT (Hearing No.) _____	If Subsequent Hearing, Date of Last Hearing
--	---

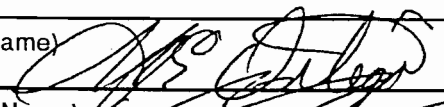
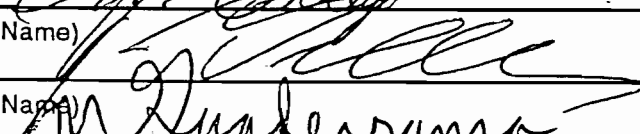
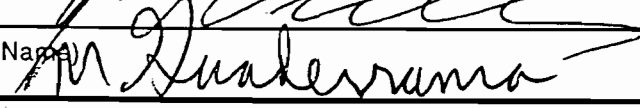
Department Representative

Counsel for Prisoner CLAY LAUCELLA	Address
District Attorney Representative	County L.A.

PAROLE HEARING CALENDAR

This form and the panel's statement at the conclusion of the hearing constitute a proposed decision and order of the Board of Prison Terms. The decision becomes effective when issued following the decision review process.

By:

Presiding (Name) 	Date 7/
Concurring (Name) 	Date 24/
Concurring (Name) 	Date 19/

NAME SUNDBERG, ROGER	CDC NUMBER D-79282	INSTITUTION CTF-Soledad	CALENDAR 07/97	HEARING DATE 07/24/97
-------------------------	-----------------------	----------------------------	-------------------	--------------------------

BPT 1001 (REV. 1/91)

PERMANENT ADJ

1 CALIFORNIA BOARD OF PRISON TERMS

2 D E C I S I O N

3 PRESIDING COMMISSIONER ORTEGA: Okay. The
4 panel has reviewed all the information received from
5 the public and relied on the following circumstances
6 in concluding that the prisoner is not suitable for
7 parole and would pose an unreasonable risk of danger
8 to society and a threat to public safety if released
9 from prison. Number one was the commitment offense.
10 The offense was carried out in an especially cruel and
11 callous manner, it was carried out in a manner which
12 exhibits a callous disregard for the life and
13 suffering of another, and the offense was carried out
14 in a dispassionate and calculated manner. These
15 conclusions were drawn from the statement of facts
16 wherein the prisoner, in a bit of rage, went next door
17 to his neighbor's home and shot him a minimum of 14
18 times, and then turned the gun on himself, and then
19 broke into a neighbor's residence, at which time he
20 was ultimately then arrested and taken to the hospital
21 as well. Institutional behavior, the prisoner has
22 failed to develop a marketable skill that could be put
23 to use upon release. It's my understanding we haven't
24 seen the vocational certificate, is that correct, from
25 -- I fail to see anything in the C-file or fail to see
26 anything in the report.

27 ROGER SUNDBERG, D-79282 DECISION PAGE 1 7/24/97

49

ATTORNEY LAUCELLA: I remember seeing it.

PRESIDING COMMISSIONER ORTEGA: So, we have to get that in the file.

INMATE SUNDBERG: May I interject?

PRESIDING COMMISSIONER ORTEGA: Do you have the chronos for that?

INMATE SUNDBERG: It's referred to in one of the chronos from my supervisors.

PRESIDING COMMISSIONER ORTEGA: Okay. Well, we have to see the actual document. We have to see that, so you might want to look for that and make sure it gets in there. And also, he has not participated in sufficient beneficial self-help and/or therapy programming.

Now, the psychiatric factors, the psychiatric report that was dated 4/28/97, authored by Dr. Terrini, is not totally supportive of release at this time. The panel makes the following findings. The prisoner needs therapy in order to face, discuss, understand and cope with stress in a non-destructive manner, and until progress is made the prisoner continues to be unpredictable and a threat to others. Also, the prisoner's gains are recent and he must demonstrate an ability to maintain gains over an extended period of time. Nevertheless, the prisoner should be commended for gaining his AA degree and for

ROGER SUNDBERG, D-79282 DECISION PAGE 2 7/24/97

1 remaining disciplinary free his entire time while he's
2 been in the institution. However, these positive
3 aspects of his behavior do not outweigh the factors of
4 unsuitability.

5 Mr. Sundberg, this is going to be a three year
6 denial. The panel finds that it's not reasonable to
7 expect that parole would be granted at a hearing
8 during the next three years, and the specific reasons
9 for these findings are as follows. The prisoner
10 committed the offense in an especially cruel and
11 callous manner, we're not going to go through that
12 again, you know exactly how that happened, and as a
13 result a longer period observation and evaluation is
14 required before the Board should set a parole date.
15 And also, the prisoner has not completed the necessary
16 programming essential to his adjustment, and needs
17 additional time to gain such programming. And
18 particularly what we're talking about is more therapy,
19 more one on one therapy, if possible, to understand
20 and to cope with the problems of stress that this
21 crime has committed. The panel is going to recommend
22 that the prisoner remain disciplinary free, that he
23 continue to upgrade vocationally and educationally,
24 and that he participate in self-help and therapy
25 programming as it becomes available, and continue to
26 work with those issues.

27 ROGER SUNDBERG, D-79282 DECISION PAGE 3 7/24/97

1 That's the official decision, it was a
2 unanimous decision by the Board. We feel that you've
3 come a long way, you've done well in the institution,
4 however, there's still some issues and concerns that
5 you're going to have to deal with, and that's going to
6 be done probably better by an educated clinician that
7 can help you cope and understand those stresses and
8 those problems that manifested in the shooting.

9 Anything that you'd like to add, Mr. Gillis?

10 COMMISSIONER GILLIS: No. Good luck.

11 PRESIDING COMMISSIONER ORTEGA: Anything, Mr.
12 Guaderrama?

13 COMMISSIONER GUADERRAMA: No.

14 PRESIDING COMMISSIONER ORTEGA: At this time
15 then we're going to end the hearing. The time now is
16 approximately 11:24 a.m. The best to you.

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18
19 --o0o--
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21
22
23
24

25 PAROLE DENIED THREE YEARS

26 EFFECTIVE DATE OF THIS DECISION SEP 12 1997

27 ROGER SUNDBERG, D-79282 DECISION PAGE 4 7/24/97

DECLARATION OF TRANSCRIBER

I, MARYANN LOVERRO, a duly designated transcriber, PETERS SHORTHAND REPORTING SERVICES, do hereby declare and certify under penalty of perjury that I have transcribed tape(s) which total one in number and cover a total of pages numbered 1 - 51, and which recording was duly recorded at CALIFORNIA TRAINING FACILITY, SOLEDAD, CALIFORNIA, in the matter of the INITIAL PAROLE CONSIDERATION HEARING OF ROGER SUNDBERG, CDC No. D-79282, on July 24, 1997, and that the foregoing pages constitute a true, complete, and accurate transcription of the aforementioned tape to the best of my ability.

I hereby certify that I am a disinterested party in the above-captioned matter and have no interest in the outcome of the hearing.

Dated September 2, 1997, at Sacramento, California.


MARYANN LOVERRO
TRANSCRIBER

**LIFE PRISONER: PAROLE CONSIDERATION
PROPOSED DECISION (BPT §2041)**

I. [✓] PAROLE DENIED 3 YRS.

If this proposed decision denying parole is approved, the Board will send you a copy of the approved decision, including the reasons for denial of parole, within 30 days of the hearing.

II. [] PAROLE GRANTED

A. Base Period of Confinement Months

Case No.	Count No.	Offense
----------	-----------	---------

B. Firearm Enhancement.....+ _____ Months

C. Other Crimes Total + _____ Months

Case No.	Count No.	Offense	_____ mos.
----------	-----------	---------	------------

Case No.	Count No.	Offense	_____ mos.
----------	-----------	---------	------------

Case No.	Count No.	Offense	_____ mos.
----------	-----------	---------	------------

D. Total Term = _____ Months




E. Postconviction Credit From _____ To _____ – _____ Months
(Date) (Date)

F. Total Period of Confinement..... = _____ Months

The period of confinement indicated is a tentative decision proposed by this panel. The decision will be reviewed pursuant to BPT §2041, and, if approved, a copy of the approved decision will be sent to you within 30 days. At that time appropriate pre-prison credits will be applied and a parole release date computed.

You will not engage in any conduct specified in BPT §2451. Such conduct may result in rescission or postponement of your parole date.

III. If the proposed decision denying or granting parole is disapproved, you will receive a copy of the proposed decision and the reasons for disapproval. You will then receive a copy of the modified decision or will be scheduled for a new hearing, as appropriate.

PANEL HEARING CASE			
Name		Date	7/
Name		Date	24/
Name		Date	97
NAME	CDC NUMBER	INSTITUTION	HEARING DATE
SUNDBERG, ROGER	D-79282	CTF-Soledad	07-24-97

Distribution: White—

BOARD OF PRISON TERMS

STATE OF CALIFORNIA

LIFE PRISONER PAROLE CONSIDERATION WORKSHEET☒ INITIAL HEARING ☐ SUBSEQUENT HEARING

PRISONER'S NAME SUNDBERG, ROGER	CDC NUMBER D-79282
DATE OF HEARING 07-24-97	LOCATION CTF-Soledad

LEGAL STATUS

DATE RECEIVED 03-07-88	DATE LIFE TERM STARTS (IF DIFFERENT) 08-04-88	COUNTY L.A.
OFFENSE Murder 2nd w/use f'arm		CASE NUMBER A474007
COUNT NUMBER(S) 01	PENAL CODE SECTION(S) VIOLATED PC 187 w/12022.5	
TERMS 15-Life + 2 years	MEPD 08-04-98	

OTHER COMMITMENT OFFENSES OR STAYED COUNTS

STAYED	OFFENSE	CODE SECTION	COUNTY	CASE NUMBER	COUNT NUMBER
<input type="checkbox"/>					
<input type="checkbox"/>					
<input type="checkbox"/>					

PRESENT AT HEARING

PANEL MEMBER <u>ORTEGA</u>	PANEL MEMBER <u>GILLIS</u>	PANEL MEMBER <u>GUADERRAMA</u>
-------------------------------	-------------------------------	-----------------------------------

OTHERS PRESENT

☐ PRISONER (IF ABSENT, WHY?) _____

☒ ATTORNEY CLAY LAURELLA

☒ DEPUTY D. A. DIANE VEZZANI COUNTY OF L.A.

☐ OTHERS: _____

STATEMENT OF FACTS☐ THE HEARING PANEL INCORPORATES BY REFERENCE FROM THE DECISION OF THE HEARING HELD

ON _____, PAGES _____ THROUGH _____

☒ THE STATEMENT OF FACT IS☐ QUOTED FROM THE BOARD REPORT, DATED _____, PAGE(S) _____☒ QUOTED FROM THE PROBATION OFFICER'S REPORT, PAGE(S) 283☐ QUOTED FROM THE COURT OPINION, PAGE(S) _____

EXHIBIT "N"

PERIOD OF CONFINEMENT			
(RECORDS OFFICER USE ONLY)			
	YR	MO	DAY
Adjusted Period of Confinement..	+1988	08	04
Date Life Term Begins	+		
At Large Time.....	=		
PAROLE DATE			

MISCELLANEOUS	
<div>1 year Denial Please prepare new psych report prior to next hearing</div>	<div>Panel recommendations and requests: Become <input checked="" type="checkbox"/> Remain disciplinary free. Work towards reducing his/her custody level. Upgrade <input type="checkbox"/> vocationally <input type="checkbox"/> educationally <input checked="" type="checkbox"/> Participate in <input checked="" type="checkbox"/> self-help (and) <input type="checkbox"/> therapy. Transfer to <input type="checkbox"/> Cat. X <input type="checkbox"/> Cat. T.</div>
PENAL CODE SECTION 3042 NOTICES <input checked="" type="checkbox"/> SENT (Date) 06-13-2003	

COMMITMENT OFFENSE	
PC 187 W/12022.5 (Code Section)	MURDER 2ND W/USE F'ARM (Title)
A474007 (Case Number)	01 (Count Number)

Date Received by CDC 03-07-1988	Date Life Term Begins 08-04-1988	Controlling MEPD 08-04-1998
Type of Hearing <input type="checkbox"/> INITIAL <input checked="" type="checkbox"/> SUBSEQUENT (Hearing No.) #2		If Subsequent Hearing, Date of Last Hearing
Department Representative D.S. LEVORSE, C&PR		
Counsel for Prisoner CANDICE CHRISTENSEN	Address	
District Attorney Representative Scott Carbaugh	County LOS ANGELES	

PAROLE HEARING CALENDAR

This form and the panel's statement at the conclusion of the hearing constitute a proposed decision and order of the Board of Prison Terms. The decision becomes effective when issued following the decision review process.

By: <div>Presiding (Name) <i>[Signature]</i></div>		Date <i>7/31/03</i>		
Concurring (Name) <i>[Signature]</i>		Date <i>7/31/03</i>		
Concurring (Name) <i>[Signature]</i>		Date <i>7/31/03</i>		
NAME SUNDBERG, ROGER	CDC NUMBER D79282	INSTITUTION CTF	CALENDAR	HEARING DATE JULY 31, 2003

CALIFORNIA BOARD OF PRISON TERMS

D E C I S I O N

1 PRESIDING COMMISSIONER MOORE: All right. Let
2
3 the record show that all interested parties have
4 returned to the room in Roger Sundberg, CDC number D
5 as in David 79282. The Panel reviewed all
6 information received from the public and relied on
7 the following circumstances in concluding that the
8 prisoner is not suitable for parole and would pose
9 an unreasonable risk of danger to society or a
10 threat to public safety if released from prison at
11 this time. Mr. Sundberg, this is going to be a
12 one-year denial this time. The paramount reason
13 would be the time and the gravity of the committing
14 offense. The offense was carried out in an
15 especially vicious and brutal manner. The offense
16 itself was the shooting of Steven Summers, who was
17 the next door neighbor. The prisoner became enraged
18 over apparently a number of different issues that
19 were happening in his life at the time. He went
20 next door to Mr. Summers' residence and proceeded to
21 scuffle with Mr. Summers, to enter into a
22 confrontation with the victim in the garage. They
23 then moved. The prisoner followed the victim into
24 the residence, ultimately to the bathroom of the
25 home where the prisoner shot the victim again
26

1 several times. This offense was carried out in an
2 especially insensitive disregard for human
3 suffering. As I indicated, the prisoner not only
4 shot the victim early in this confrontation, he then
5 pursued him as he went into the -- had fallen into
6 the bathroom or into the bathtub area. He proceeded
7 to shoot him. His young son was attempting to stop
8 the prisoner from killing his father, and
9 undoubtedly caused some severe trauma to this young
10 boy. Nevertheless, the conclusions are drawn from
11 the Statement of Facts wherein the prisoner went in
12 a rage where the victim was residing next door. He
13 shot the victim a minimum of 14 times, then turned
14 the gun on himself while at the neighbor's
15 residence. And then was ultimately apprehended and
16 taken to a hospital for treatment as well. The
17 institutional behavior, the prisoner's not
18 sufficiently participated in beneficial self-help
19 and therapy at this time. There are no disciplinary
20 behaviors. He's been disciplinary-free. The
21 psychosocial report was adequate. Parole plans were
22 adequate. 3042 Notices, the hearing Panel notes
23 responses to 3042 Notices indicate opposition to a
24 finding of suitability, specifically the District
25 Attorney's Office of Los Angeles County with a
26 representative present in opposition today, as well

1 as a letter received from the sheriff of Los Angeles
2 County, Sheriff Bacca. A letter received from the
3 captain of the homicide bureau, Frank Merriman,
4 which was the law enforcement agency which
5 investigated this particular case. He was in
6 opposition. His letter was received July 14th, of
7 '03. Remarks, the prisoner should be commended.
8 He's done remarkably well during his entire
9 incarceration, staying out of trouble, 115s, 128s,
10 there was one for grooming. He's participated in AA
11 and vice chair, and currently secretary I believe.
12 He was participating in mediation -- not mediation,
13 meditation, excuse me, and depression groups. He's
14 gone to weekly sessions with Dr. Gamard. He was on
15 the waiting listing for conflict resolution. He's
16 completed data processing vocation. He's had
17 positive work reports. He was a teacher's aide in
18 data processing, as well as teacher's aide in
19 computer repair. He's upgraded himself, got an AA
20 degree from Hartnell College, as well as some
21 numerous -- almost enough for a BA. However, these
22 positive aspects of his behavior don't affect his
23 unsuitability at this point. And as I said,
24 Mr. Sundberg, this is a one-year denial. And
25 recommendations to you are to continue to remain
26 disciplinary-free. And if it's available to you

1 continue to participate in beneficial self-help and
2 therapy programming that will enable you to better
3 understand the causative factors of why you lost it
4 and just saw red when you caused the demise of your
5 neighbor Mr. Summers. Commissioner, any comments to
6 the prisoner?

7 **DEPUTY COMMISSIONER BACHLOR:** I do have one
8 comment I'd make to you is you may want to research
9 some depression groups out in the community in the
10 Los Angeles area. I think it is going to be
11 important for you to have those available to you as
12 soon as you come out. So I would recommend that you
13 do that and be ready to talk about that next time.

14 **INMATE SUNDBERG:** Are you familiar with what
15 resources in the area of the parole department is?

16 **DEPUTY COMMISSIONER BACHLOR:** No, no. I would
17 not count on parole, sir, at all, no.

18 **INMATE SUNDBERG:** I know they do have --

19 **DEPUTY COMMISSIONER BACHLOR:** You'd be assigned
20 to parole outpatient clinic very likely because of
21 your triple CMS status. That means you go to see a
22 psychiatrist or psychologist maybe once a month.
23 It's a very brief meeting usually. I would not
24 count on that at all.

25 **INMATE SUNDBERG:** Thank you.

26 **DEPUTY COMMISSIONER BACHLOR:** All right.

46

1 INMATE SUNDBERG: I appreciate your time.

2 DEPUTY COMMISSIONER BACHLOR: And I believe,
3 Sir, we will be requesting a new psych report for
4 next time.

5 PRESIDING COMMISSIONER MOORE: Sure.

6 DEPUTY COMMISSIONER BACHLOR: At counselor's
7 request.

8 ATTORNEY CHRISTENSEN: Thank you.

9 DEPUTY COMMISSIONER BACHLOR: All right. I wish
10 you good luck, sir.

11 INMATE SUNDBERG: Thank you.

12 ATTORNEY CHRISTENSEN: Thank you.

13 PRESIDING COMMISSIONER MOORE: And with that we
14 would conclude the hearing, as well as ask you to
15 cooperate with clinicians. Thank you, sir.

16 --o0o--

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23

24

25 PAROLE DENIED ONE YEAR

26 FINAL DATE OF DECISION OCT 29 2003

27 ROGER SUNDBERG D-79282 DECISION PAGE 5 7/31/03

CERTIFICATE AND
DECLARATION OF TRANSCRIBER

I, CONNIE MASTIN, a duly designated transcriber, CAPITOL ELECTRONIC REPORTING, do hereby declare and certify under penalty of perjury that I have transcribed tape(s) which total one in number and cover a total of pages numbered 1 through 46, and which recording was duly recorded at CORRECTIONAL TRAINING FACILITY, at SOLEDAD, CALIFORNIA, in the matter of the SUBSEQUENT PAROLE CONSIDERATION HEARING of ROGER SUNDBERG, CDC No. D-79282, on JULY 31, 2003, and that the foregoing pages constitute a true, complete, and accurate transcription of the aforementioned tape(s) to the best of my ability.

I hereby certify that I am a disinterested party in the above-captioned matter and have no interest in the outcome of the hearing.

Dated AUGUST 15, 2003, at Sacramento County, California.



Connie Mastin
Transcriber
CAPITOL ELECTRONIC REPORTING

LIFE PRISONER: PAROLE CONSIDERATION
PROPOSED DECISION (BPT §2041)

☒ [X] PAROLE DENIED *1 year Denial*

If this proposed decision denying parole is approved, the Board will send you a copy of the approved decision, including the reasons for denial of parole, within 30 days of the hearing.

II. [] PAROLE GRANTED

A. Base Period of Confinement Months

Case No.	Count No.	Offense	
B. Firearm Enhancement.....+ Months			
C. Other Crimes Total.....+ Months			
Case No.	Count No.	Offense	mos.
Case No.	Count No.	Offense	mos.
Case No.	Count No.	Offense	mos.
D. Total Term= Months			
E. Postconviction Credit From (Date) To (Date) - Months			
F. Total Period of Confinement.....= Months			

The period of confinement indicated is a tentative decision proposed by this panel. The decision will be reviewed pursuant to BPT §2041, and, if approved, a copy of the approved decision will be sent to you within 30 days. At that time appropriate pre-prison credits will be applied and a parole release date computed.

You will not engage in any conduct specified in BPT §2451. Such conduct may result in rescission or postponement of your parole date.

II. If the proposed decision denying or granting parole is disapproved, you will receive a copy of the proposed decision and the reasons for disapproval. You will then receive a copy of the modified decision or will be scheduled for a new hearing, as appropriate.

PANEL HEARING CASE		
Name <i>James H. Thane</i>	Date <i>4/31/03</i>	
Name <i>D. J. B. B. B.</i>	Date	
Name	Date	
CDC NUMBER	INSTITUTION	HEARING DATE

BOARD OF PRISON TERMS

STATE OF CALIFORNIA

SETTING A LIFE PRISONER TERM - PAROLE DENIED

11. NOTE TO CDC STAFF: RECOMMENDATIONS AND REQUESTS

☒ 3. the panel's belief that the prisoner's current mental health is an important issue. In the new full evaluation, the panel requests that the clinician specifically address the following:

☒ a. the prisoner's violence potential in the free community;

☒ b. the significance of alcohol/drugs as it relates to the commitment offense and an estimate of the prisoner's ability to refrain from use/abuse of same when released;

☐ c. the prisoner's psycho-sexual problems;

☐ d. the extent to which the prisoner has explored the commitment offense and come to terms with the underlying causes;

☐ e. the need for further therapy programs while incarcerated.

☒ f. other: the extent to which he has
learned skills to cope with disappointment
and rejection. P states the rejection from
his wife was a major factor in the Com Offense.

☐ 4. the panel's belief that the prisoner has deteriorated psychologically and there appears to be a need for treatment. The panel bases this conclusion upon

☐ B. (Other requests to CDC staff): _____

Sunberg, Roger

D79282

LIFE PRISONER PAROLE CONSIDERATION WORKSHEET

☐ INITIAL HEARING

☒ SUBSEQUENT HEARING

PRISONER'S NAME SUNDBERG, ROGER	CDC NUMBER D79282
DATE OF HEARING THURSDAY, JULY 31, 2003 @ 11:00 a.m.	LOCATION CORRECTIONAL TRAINING FACILITY - SOLEDAD

LEGAL STATUS

DATE RECEIVED 03-07-1988	DATE LIFE TERM STARTS (IF DIFFERENT) 08-04-1988	COUNTY LOS ANGELES
OFFENSE MURDER 2ND W/USE F'ARM		CASE NUMBER A474007
COUNT NUMBER(S) 01	PENAL CODE SECTIONS(S) VIOLATED PC 187 W/12022.5	
TERMS 15 TO LIFE PLUS 2 YEARS	MEPD 08-04-1998	

OTHER COMMITMENT OFFENSES OR STAYED COUNTS

STAYED	OFFENSE	CODE SECTION	COUNTY	CASE NUMBER	COUNT NUMBER
<input type="checkbox"/>					
<input type="checkbox"/>					
<input type="checkbox"/>					

PRESENT AT HEARING

PANEL MEMBER <i>Thorne</i>	PANEL MEMBER <i>Bachlar</i>	PANEL MEMBER
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OTHERS PRESENT

☐ PRISONER (IF ABSENT, WHY)

☒ ATTORNEY
CANDICE CHRISTENSEN

☐ DEPUTY D. A.
Scott Carbaugh COUNTY OF *Los Angeles*

☐ OTHERS:

STATEMENT OF FACTS

☒ THE HEARING PANEL INCORPORATED BY REFERENCE FROM THE DECISION OF THE HEARING HELD
ON *6/6/01*, PAGES *6* THROUGH *7*
transcript

☐ THE STATEMENT OF FACT IS

☐ QUOTED FROM THE BOARD REPORT, DATED _____ PAGE(S) _____

☐ QUOTED FROM THE PROBATION OFFICER'S REPORT, PAGE(S) _____

☐ QUOTED FROM THE COURT OPINION, PAGE(S) _____

EXHIBIT "O"

<input type="checkbox"/> PAROLE GRANTED - (YES) CDC: Do not release prisoner before Governor's review	Records Use Only Parole Release Date _____ YR MO DAY Attach Prison Calculation Sheet
<input checked="" type="checkbox"/> PAROLE DENIED - (NO) - 1 year (one)	

☐ AGREED UNSUITABLE (Attach 1001A Form) FOR: _____ YEAR(S)
☐ HEARING POSTPONED/REASON: _____

PANEL RECOMMENDATIONS AND REQUESTS

The Board Recommends:

- | | | |
|---|--|--|
| <input type="checkbox"/> No more 115's or 128A's | <input checked="" type="checkbox"/> Stay discipline free | <input type="checkbox"/> Earn positive chronos |
| <input type="checkbox"/> Work to reduce custody level | <input type="checkbox"/> Learn a trade* | <input type="checkbox"/> Get a GED* |
| <input checked="" type="checkbox"/> Get self-help* | <input type="checkbox"/> Get therapy* | |

- ☐ Recommend transfer to _____
☐ Other _____

*These programs are recommended if they are offered at your prison and you are eligible/able to participate.

Penal Code 3042 Notices ☒ Sent Date: 9/2/04

Commitment Offense(s)	P187 Code(s) A474007 Case #(s)	MURDER 2ND Crime(s) 1 Count #(s)
Date Inmate Came to CDC 3/7/88	Date Life Term Began	Minimum Eligible Parole Date 8/4/98
<input type="checkbox"/> Initial Hearing	<input checked="" type="checkbox"/> Subsequent (Hearing No.) 3	Date of Last Hearing

CDC Representative

Attorney for Prisoner	MARU ANN TARDIFF	Address
D.A. Representative	Tonia Sousa	County

This form and the Board's decision at the end of the hearing is only proposed and NOT FINAL. It will not become final until it is reviewed.

Chair	<i>[Signature]</i>	Date	10/10/04
Panel Member	<i>[Signature]</i>	Date	10/10/04
Panel Member		Date	

NAME SUNDBERG, ROGER CDC # D79282 PRISON CTF CALENDAR 10/04 DATE

CALIFORNIA BOARD OF PRISON TERMS

D E C I S I O N

DEPUTY COMMISSIONER SMITH: We're on the record. Everyone previously identified is back in the hearing room.

PRESIDING COMMISSIONER RISEN: Okay. The time is 4:00 p.m. The Panel reviewed all information received from the public and relied on the following circumstances in concluding that the prisoner is not suitable for parole and would pose an unreasonable risk of danger to society or a threat to public safety if released from prison. It's a one-year denial. The offense was carried out in an especially violent and brutal manner. These conclusions are drawn from the Statement of Facts wherein the prisoner shot and killed the victim, Paul, Steven Paul Summers. The victim was estranged from his wife. The prisoner developed a romantic relationship with her. While the wife was separated from the victim, she obtained a -- What do you call them?

DEPUTY COMMISSIONER SMITH: Restraining order.

PRESIDING COMMISSIONER RISEN: Restraining order, right, but she did allow him to move back into the garage and use the house. On this

1 particular occasion, the prisoner saw the victim in
2 the backyard and became enraged. He picked up his
3 pistol and some extra bullets, went next door to
4 the garage where he shot the victim, where he fired
5 the gun five times. I don't know how many times he
6 hit the victim. The victim then headed for the
7 house. The prisoner continued to follow him,
8 followed him into the house, reloading his gun with
9 five more bullets. The victim went into the
10 bathroom. They fought in the bathroom. This
11 prisoner then shot the victim again and reloaded
12 the gun and shot again. There were a total of 13
13 rounds fired. The gun only holds five, so it took
14 two reloads. The victim was shot in the head, the
15 chest, the forearm, and the wrist. The victim's
16 11-year-old son witnessed this incident. After the
17 incident, the prisoner placed the gun to his head
18 and fired one round, but it was not fatal. He just
19 suffered injuries. The prisoner has no prior
20 criminal history as a juvenile or adult. His
21 institutional behavior is satisfactory. He has
22 been programming. The psychiatric evaluation was
23 supportive. Regarding parole plans, the prisoner
24 has a place to reside with his mother, and we have
25 a letter from her. He does not have a job offer
26 and does not have a letter of support for the job

~~1 offer as a result of no job offer. The Hearing~~

2 Panel notes that in response to the 3042 Notices
3 the District Attorney's Office of Los Angeles
4 County participated in the hearing and was opposed
5 to parole. We received a letter from the Los
6 Angeles County Sheriff's Office, and they were
7 opposed to parole also. The prisoner should be
8 commended for receiving no 115s while incarcerated,
9 although he has received one 128(a), has completed
10 the data processing vocation. He's taking a course
11 from Coastline College in mass communications. He
12 completed a 13-week Impact workshop, completed a
13 12-week Anger Management workshop. He has
14 participated in AA and group therapy for depression
15 management. He has received laudatory chronos for
16 his participation in the previous program, and he
17 also participates in the Buddhist meditation
18 program. However, these positive aspects of the
19 prisoner's behavior do not outweigh the factors of
20 unsuitability. The Panel recommends that he remain
21 disciplinary-free, participate in whatever self-
22 help becomes available, and that concludes the
23 reading of the decision. Any comment?

24 **DEPUTY COMMISSIONER SMITH:** Yeah. Mr.
25 Sundberg, you or anyone else, this isn't required
26 to speak to the life crime, but if you choose to do
27 **ROGER SUNDBERG D-79282 DECISION PAGE 3 10/28/04**

1 so, whether it's this Panel or any Panel, we expect
2 that whatever we're told is going to be the full
3 truth of the matter. It wasn't until the recess
4 that I learned that in fact 13 shots had been fired
5 which means when I was asking you about reloading
6 the first time, you explained that, you addressed
7 it, but the fact of the matter was that you
8 reloaded twice, but you didn't bother to tell me
9 that. You're taking a position, and it's
10 referenced in the letter from the instructor that
11 you're happy to answer any questions specifically
12 that you're asked, but you're not going to
13 volunteer anything, and part of becoming in control
14 of your commitment offense and representing and
15 presenting yourself before a Panel is for you to be
16 willing and able to discuss openly what the
17 commitment offense was not simply answer whatever
18 questions may be coming and let it go at that,
19 because it doesn't give us a clear story, perhaps
20 it doesn't give you the clear story. Thank you,
21 Chair.

22 **INMATE SUNDBERG:** May I respond?

23 **PRESIDING COMMISSIONER RISEN:** No. That's
24 just a statement. It's 4:05 p.m. We'll conclude
25 the hearing at this time. Thank you.

26 --oOo--

27 **ROGER SUNDBERG** D-79282 DECISION PAGE 4 10/28/04

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PAROLE DENIED ONE YEAR

11 25 10

THIS DECISION WILL BE FINAL ON: _____

YOU WILL BE PROMPTLY NOTIFIED IF, PRIOR TO THAT
DATE, THE DECISION IS MODIFIED.

ROGER SUNDBERG D-79282 DECISION PAGE 5 10/28/04

~~CERTIFICATE AND~~

DECLARATION OF TRANSCRIBER

I, KRISTIN LEDBETTER, a duly designated transcriber, CAPITOL ELECTRONIC REPORTING, do hereby declare and certify under penalty of perjury that I have transcribed tape(s) which total one in number and cover a total of pages numbered 1 through 65, and which recording was duly recorded at CORRECTIONAL TRAINING FACILITY, at SOLEDAD, CALIFORNIA, in the matter of the SUBSEQUENT PAROLE CONSIDERATION HEARING of ROGER SUNDBERG, CDC No. D-79282, on OCTOBER 28, 2004, and that the foregoing pages constitute a true, complete, and accurate transcription of the aforementioned tape(s) to the best of my ability.

I hereby certify that I am a disinterested party in the above-captioned matter and have no interest in the outcome of the hearing.

Dated NOVEMBER 9, 2004, at Sacramento County, California.


Kristin Ledbetter
Transcriber
CAPITOL ELECTRONIC REPORTING

BOARD OF PRISON TERMS

STATE OF CALIFORNIA

LIFE PRISONER: PAROLE CONSIDERATION PROPOSED DECISION:

DENY PAROLE

[X] PAROLE DENIED FOR:

1

2

3

4

5

YEARS

Place the prisoner on the 10-2005 calendar for his next subsequent hearing.

If this decision is final, you WILL NOT get paroled. The Board will send you a copy of the decision. It will indicate the reasons you did not get paroled. If this decision is not final, the Board will set up another hearing. You can read the laws about your hearing. You can find the laws at California Code of Regulations, Title 15, section 2041.

RECOMMENDATIONS**The Board Recommends:**

[] No more 115's or 128A's

[] Learn a trade*

[] Work to reduce custody level

[] Get therapy*

[X] Get self-help*

[] Earn positive chronos

[X] Stay discipline free

[] Get a GED*

[] Recommend transfer to _____

[] Other _____

* These programs are recommended if they are offered at your prison and you are eligible/able to participate.

HEARING PANEL

Name

Date

Name

Date

Name

Date

NAME

CDC#

PRISON

DATE

SUNDBERG

D 79282

CTF

10-28-04

BPT 1005(b)
(REV 04/04)

Distribution: White-Q File
Canary-BPT
Pink-Prisoner

LIFE PRISONER PAROLE CONSIDERATION WORKSHEET

☐ INITIAL HEARING ☒ SUBSEQUENT HEARING

PRISONER'S NAME SUNDBERG, ROGER	CDC NUMBER D79282
DATE OF HEARING THURSDAY, OCTOBER 28, 2004 @ 1:30 PM	LOCATION CORRECTIONAL TRAINING FACILITY - SOLEDAD

LEGAL STATUS

DATE RECEIVED 3/7/88	DATE LIFE TERM STARTS (IF DIFFERENT)	COUNTY LA
OFFENSE MURDER 2ND		CASE NUMBER A474007
COUNT NUMBER(S) 01	PENAL CODE SECTIONS(S) VIOLATED P187	
TERMS 17 TO LIFE	MEPD 8/4/98	

OTHER COMMITMENT OFFENSES OR STAYED COUNTS

STAYED	OFFENSE	CODE SECTION	COUNTY	CASE NUMBER	COUNT NUMBER
<input type="checkbox"/>					
<input type="checkbox"/>					
<input type="checkbox"/>					

PRESENT AT HEARING

PANEL MEMBER <i>Kelsen</i>	PANEL MEMBER <i>D SMITH</i>	PANEL MEMBER _____
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OTHERS PRESENT

☒ PRISONER (IF ABSENT, WHY) *Present*

☒ ATTORNEY *MARY ANN TARDIFF*

☒ DEPUTY D. A. *TONY SOUSA* COUNTY OF *LA*

☐ OTHERS: *_____*

STATEMENT OF FACTS

☐ THE HEARING PANEL INCORPORATED BY REFERENCE FROM THE DECISION OF THE HEARING HELD ON _____, PAGES _____ THROUGH _____

☒ THE STATEMENT OF FACT IS

☐ QUOTED FROM THE BOARD REPORT, DATED _____, PAGE(S) _____

☒ QUOTED FROM THE PROBATION OFFICER'S REPORT, PAGE(S) *243*

☐ QUOTED FROM THE COURT OPINION, PAGE(S) _____

EXHIBIT P

PSYCHIATRIC EVALUATION FOR THE BOARD OF PRISON TERMS
SEPTEMBER 1991 ISL CALENDAR

CORRECTIONAL TRAINING FACILITY, SOLEDAD
JULY 19, 1991

This is the first psychiatric evaluation for the Board of Prison Terms on inmate Sundberg. This report is the product of a 30 minute interview, as well as a review of his Central file and medical record.

His crime consisted of the shooting death of a neighbor following a long history of difficulties between this neighbor and himself. Inmate Sundberg has had a good record while incarcerated, with no CDC 115s. He had a problem with alcohol abuse and marijuana prior to his incarceration. He now attends Alcoholics Anonymous. He has had over one year of college and is still taking classes. He is studying data processing and programming with computers. Vocationally, he is working now as a vocational data processing clerk. For nine years prior to his incarceration, he worked as a telephone operator. His future plans include trying to transfer to Utah to be near his children, since his brother has been appointed the foster parent for the children. Inmate Sundberg's wife was in prison for drug abuse and is now out. He plans to work with computers when he paroles and live near his children. He expressed regret for his Life crime.

MENTAL STATUS EXAMINATION: Inmate Sundberg is a well developed, well nourished male of medium build who appeared to be his stated age of 34. He was appropriately dressed and groomed, and seemed reasonably relaxed and cooperative during the interview. His speech was of normal intensity, rate, inflection and quantity. His affect was normal and seemed appropriate to the content of his thought. He has had a long standing problem with depression. His flow of thought was normal with no hallucinations nor delusions noted. He seemed to be fully oriented with normal intellectual functioning. His attention and concentration were good. His insight and judgment appear to be improving.

PSYCHIATRIC DIAGNOSES: (DSM-III-R)

AXIS I: 300.40 - Dysthymia.
305.00 - Alcohol abuse, in institutional remission.
305.20 - Cannabis abuse, in institutional remission.
AXIS II: V71.09 - No diagnosis.

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D-79282

CTF-CENTRAL

07/24/91

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SUNDBERG
D-79282
Page 2

AXIS III: No diagnosis.
AXIS IV: Psychosocial stress - two (incarceration).
AXIS V: Global assessment of functioning: current 90, past year 90.

PSYCHIATRIC CONCLUSIONS: His diagnosed psychopathology appears to be indirectly related to his offense. It was a contributing, but not a determining, factor. Both the chronic depression and alcohol abuse may have contributed to some of his problems with his neighbor and his neighbor's family. He does not have a psychiatric condition which would benefit from mental health treatment following his release, other than perhaps continuing treatment for his depression. He does appear to be showing improvement in his behavior and states that he is feeling much better. If released, he should be able to maintain these gains, provided he continues for a time to see a therapist and avoids alcohol and illicit drugs.

SUGGESTED ACTIONS: If he is to be continued in his present program, he should be encouraged to continue his participation in Alcoholics Anonymous and his further education in computers and computer programming. If he is considered for parole, his level of dangerousness should be less than for the average inmate. Conditions for parole should include no alcohol nor illicit drugs.

RECOMMENDATION TO CLASSIFICATION COMMITTEE: Until released, he should:
1) Continue to attend Alcoholics Anonymous. 2) Continue his education in the computer field.

Bruce Bakeman Ph.D.

BRUCE M. BAKEMAN, Ph.D.
Staff Psychologist
Correctional Training Facility, Soledad

SUNDBERG

D-79282

CTF-CENTRAL

07/24/91

gj

EXHIBIT Q

PSYCHIATRIC EVALUATION FOR THE BOARD OF PRISON TERMS
DOCUMENTATION HEARING
1994 ISL CALENDAR

CORRECTIONAL TRAINING FACILITY, SOLEDAD
MAY 16, 1994

This is the second mental health evaluation for the Board of Prison Terms on inmate Roger Sundberg, DOB: 07/31/57. He was seen for a 90 minute interview, including a review of his Central file and Medical record. This was the only contact with this inmate for the purpose of this evaluation.

Since his last evaluation in 1991 by Dr. Bakeman, he has completed Dr. Bakeman's Lifeskills group. He states that he benefitted from the Lifeskills group by learning how to think about making choices and to look at himself. He currently receives anti-depressant medication from the CTF psychiatrists. He is also receiving Dilantin for a history of seizures. The seizures were caused by a self-inflicted gunshot wound to the head. He has a history of substance abuse, including alcohol and marijuana, prior to incarceration. He also has a history of self-injury, including a past overdose and a self-inflicted gunshot wound immediately after a homicide.

The interview with the inmate was consistent with the documentation in the medical record. His depression is currently in remission. He reports having no seizures in the past year.

The inmate reports that he discussed his visitation with his children during one of his treatment sessions with Dr. Farr. The inmate now has a different strategy for discussing his commitment with his children, which should address the concerns described by the Department of Social Services in their letter of 1993. The inmate now knows that he will communicate with his children in a manner which is not hopeless, but will also make no false promises.

When asked about the causative factors for the offense, he explained that he was despondent over the difficulties with his open marriage and his wife's affair. He also was experiencing conflict with the victim, whose wife was having an affair with the inmate. The inmate has gained some self-understanding about the dynamics of his behavior and believes that the violence towards the victim was partly a displacement of the anger the inmate had towards his own wife, as well as a sense of protectiveness, due to the threats made by the victim. He

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PAGE 2

appears to be sincere about his rehabilitation and is benefitting from the psychiatric medication, which he is currently receiving. His social identification appears to be positive at this time, as evidenced by a lack of disciplinary action. He is currently emotionally stable and is making good progress in his self-understanding.

PSYCHIATRIC DIAGNOSIS:

AXIS I: Major depression, recurrent, in remission.
Alcohol abuse, in remission.
Cannabis abuse, in remission.

AXIS II: Impulsive traits, improved.

AXIS III: Seizure disorder.

The above diagnosis is a reflection of substance abuse and emotional depression resulting in the homicide.

PSYCHIATRIC CONCLUSIONS: The above psychopathology was directly related to the offense. While incarcerated, he psychiatrically improved moderately due to the improved emotional stability. He could benefit from further insight about his relationship conflicts and emotional needs that led to the offense.

In a less controlled setting, he is likely to maintain his gains provided he receives adequate psychiatric treatment and maintains his sobriety.

SUGGESTED ACTION: It is recommended that he continue with his present rehabilitation program. He should continue to receive psychiatric medication. He could benefit from extensive psychotherapy if that became available to him. He has already benefitted considerably from his treatment sessions with Dr. Farr.

PAROLE AND RELEASE: If this inmate were to be paroled or released, his potential for violence in the past was considered to have been average and at present is estimated to be decreased.

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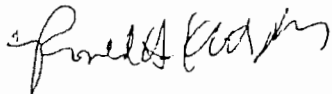
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SUNDBERG
D-79282
PAGE 3

Conditions of parole would include random drug screening, attendance at Alcoholics Anonymous meetings, evaluation for treatment with Antabuse unless medically contraindicated, parole outpatient mental health treatment - both psychiatric medications and individual psychotherapy. He currently benefits from being incarcerated in proximity to his children. This is beneficial to him and it is recommended to be continued.



RONALD H. KITT, Ph.D.
Clinical Psychologist
Correctional Training Facility, Soledad

SUNDBERG

D-79282

CTF-CENTRAL

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EXHIBIT R

SUPERIOR COURT OF CALIFORNIA COUNTY OF LOS ANGELES		Reserved for Clerk's File Stamp FILED LOS ANGELES SUPERIOR COURT NOV 20 2007 BY <u><i>A. Aldana</i></u> DEPUTY
COURTHOUSE ADDRESS: Clara Shortridge Foltz Criminal Justice Center 210 West Temple Street Los Angeles, CA 90012		
PLAINTIFF/PETITIONER: ROGER SUNDBERG		
CLERK'S CERTIFICATE OF MAILING CCP, § 1013(a) Cal. Rules of Court, rule 2(a)(1)		CASE NUMBER: BH004698

I, the below-named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that this date I served:

- ☐ Order Extending Time
☐ Order to Show Cause
☐ Order for Informal Response
☐ Order for Supplemental Pleading

- ☒ Order re: Writ of Habeas Corpus Denied
☐ Order
☐ Order re:
☐ Copy of Petition for Writ of Habeas Corpus for the Attorney General

I certify that the following is true and correct: I am the clerk of the above-named court and not a party to the cause. I served this document by placing true copies in envelopes addressed as shown below and then by sealing and placing them for collection; stamping or metering with first-class, prepaid postage; and mailing on the date stated below, in the United States mail at Los Angeles County, California, following standard court practices.

November 20, 2007
DATED AND DEPOSITED

JOHN A. CLARKE, Executive Officer/Clerk

By: *Alexandre J. Aldana*, Clerk
Alexandre J. Aldana

Roger Sundberg
D-79282
Correctional Training Facility
P.O. Box 689
Soledad, California 93960-0689

Department of Justice- State of California
Office of the Attorney General
110 West A Street, Suite 1100
San Diego, California 92101
Attn: Cynthia Lumely

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**DEPT 100**

Date: OCTOBER 29, 2007

Honorable: STEVEN R. VAN SICKLEN
NONEJudge A. ALDANA
Bailiff NONEDeputy Clerk
Reporter

(Parties and Counsel checked if present)

BH004698

In re,

ROGER SUNDBERG,

Petitioner,

On Habeas Corpus

Counsel for Petitioner:

Counsel for Respondent:

Nature of Proceeding: ORDER RE: PETITION FOR WRIT OF HABEAS CORPUS

The Court has read and considered the Petition for Writ of Habeas Corpus filed on June 1, 2007 by the Petitioner. Having independently reviewed the record, giving deference to the broad discretion of the Board of Parole Hearings ("Board") in parole matters, the Court concludes that the record contains "some evidence" to support the determination that the Petitioner presents an unreasonable risk of danger to society and is, therefore, not suitable for release on parole. See Cal. Code Reg. Tit. 15, §2402; *In re Rosenkrantz* (2002) 29 Cal.4th 616, 667.

The Petitioner was received in the Department of Corrections on March 7, 1988 after a conviction for murder in the second degree with a firearm. He was sentenced to 17 years to life. His minimum parole eligibility date was August 4, 1998.

The record reflects that the Petitioner was having trouble with his wife and was having an affair with his neighbor, Pamela Somers. Pamela and her husband, Steve Somers, were separated and because of previous physical abuse, Pamela obtained a restraining order against Steve. However, Pamela permitted Steve to live in the garage of her house. The Petitioner claims that in addition to physically harming Pamela on several occasions, Steve would also make threats against him and his wife. On May 7, 1987, the Petitioner was extremely depressed because of his marital problems and financial concerns. He saw Steve Somers going in and out of Pamela's house and became enraged. He grabbed a gun and some extra ammunition from his house and went to confront Steve. The two argued and the Petitioner claims Steve hit him in the head. The Petitioner fired several shots at

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**DEPT 100**

Date: OCTOBER 29, 2007

Honorable: STEVEN R. VAN SICKLEN
NONEJudge A. ALDANA
Bailiff NONEDeputy Clerk
Reporter

(Parties and Counsel checked if present)

BH004698

In re,

ROGER SUNDBERG,

Petitioner,

On Habeas Corpus

Counsel for Petitioner:

Counsel for Respondent:

Steve, hitting him once in the chest. Steve then tried to fight the Petitioner off and ran into Pamela's house. The Petitioner followed Steve into the house and chased him into a bathroom. Steve and Pamela's eleven year-old son attempted to prevent the Petitioner from further harming Steve by hitting him with a plastic bat. The Petitioner closed the bathroom door, blocking the boy, and then fired several more shots at Steve, hitting him 3 more times and killing him. The Petitioner then shot himself in the head, in an apparent suicide attempt, but was taken to the hospital and survived.

The Board found the Petitioner unsuitable for parole after a parole consideration hearing held on June 7, 2006. The Petitioner was denied parole for one year. The Board concluded that the Petitioner was unsuitable for parole and would pose an unreasonable risk of danger to society and a threat to public safety. The Board based its decision primarily on his commitment offense.

The Court finds that there is some evidence to support the Board's findings that the Petitioner's commitment offense demonstrated an exceptionally callous disregard for human suffering and that his motive was very trivial in relation to the offense. Cal. Code Regs., tit. 15, §2402, subds. (c)(1)(D) and (c)(1)(E). After shooting the victim once in the garage, the Petitioner continued to pursue him, hit him with the gun and his fists, and then shot him again several times. This demonstrated an exceptionally callous disregard for the victim's suffering, as it was more violent than is ordinarily shown in the commission of murder in the second degree. See *In re Scott* (2004) 119 Cal.App.4th 871, 891. Additionally, the Petitioner's motive was very trivial because, although the victim had previously threatened him and his wife and had previously been abusive to Pamela, he did not pose a threat to anyone and did not provoke the Petitioner in any way at the time of the offense. The

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DEPT 100

Date:	OCTOBER 29, 2007	Judge	A. ALDANA	Deputy Clerk
Honorable:	STEVEN R. VAN SICKLEN	Bailiff	NONE	Reporter
	NONE			
(Parties and Counsel checked if present)				
	BH004698			
	In re,		Counsel for Petitioner:	
	ROGER SUNDBERG,			
	Petitioner,		Counsel for Respondent:	
	On Habeas Corpus			

Petitioner became enraged merely by the sight of the victim moving between the garage and house. This was a very trivial motive for chasing him and shooting him multiple times.

The Board also considered the Petitioner's lack of specific parole plans with regard to possible Alcoholics Anonymous meetings, transportation, and alternate housing in the event his mother falls ill. While these factors may not justify a finding of unsuitability, the Board may consider them. Cal. Code Regs., tit. 15, §2402(b).

The Board also considered the Petitioner's post-conviction gains, including earning his Associates Degree with honors; receiving excellent work reports; completing vocational data processing and certification as an electronics technician; serving as a tutor; participating in Anger Management, Depression Group, Meditation Group, Self-Esteem Group, and several other self-help and educational programs; and his participation in Alcoholics Anonymous for almost his entire time in prison. However, they still concluded that the Petitioner would pose an unreasonable threat to public safety. Penal Code §3041(b). The Court finds that there is some evidence to support this determination because of the nature of the commitment offense. As indicated in *Rosenkrantz, supra*, 29 Cal.4th 616, 677, it is irrelevant that a court might determine that evidence in the record tending to establish suitability for parole far outweighs evidence that demonstrates suitability for parole, as long as there is some evidence to support the finding of unsuitability. See also, *In re Jacobson*, (2007) -- Cal.App.4th --, 65 Cal.Rptr.3d 222, 229; and *In re Hyde* (2007) -- Cal.App.4th --, 65 Cal.Rptr.3d 162, 172.

Finally, the court rejects the Petitioner's contention that the District Attorney's opposition to his parole violated the terms of his plea agreement. The Petitioner agreed to a bargain that subjected him to a life

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**DEPT 100**

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Bailiff NONEDeputy Clerk
Reporter

(Parties and Counsel checked if present)

BH004698

In re,

ROGER SUNDBERG,

Petitioner,

On Habeas Corpus

Counsel for Petitioner:

Counsel for Respondent:

sentence. An indeterminate sentence is, in legal effect, a sentence for the maximum term unless the parole authority acts to fix a shorter term. See *In re Dannenberg* (2005) 34 Cal.4th 1061, 1097-1098; *In re Honesto* (2005) 130 Cal. App. 4th 81, 92-93. The District Attorney must be given an opportunity to oppose parole under Penal Code §3402.

Accordingly, the petition is denied.

A true copy of this minute order is sent via U.S. Mail to the following parties:

Roger Sundberg
D-79282
Correctional Training Facility
P.O. Box 689
Soledad, California 93960-0689

Department of Justice- State of California
Office of the Attorney General
110 West A Street, Suite 1100
San Diego, California 92101
Attn: Ms. Cynthia Lumely

EXHIBIT S

Roger D. Sundberg
Correctional Training Facility
P.O. Box 689
Soledad, CA 93960-0689

Case Number B205118
Division 5

In re ROGER D. SUNDBERG on Habeas Corpus.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

COURT OF APPEAL - SECOND DISTRICT

FILED

FEB 11 2008

JOSEPH A. LAKE

CLERK

In re

ROGER D. SUNDBERG

on

Habeas Corpus.

B205118

(Super. Ct. No. BH004698)

(Steven R. Van Sicklen, Judge)

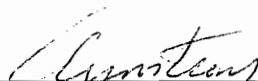
ORDER

THE COURT:

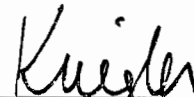
The court has read and considered the petition for writ of habeas corpus, filed January 22, 2008. The petition is denied. The record submitted reflects that there is some evidence to support the challenged decision. (*In re Rosenkrantz* (2002) 29 Cal.4th 616, 664-667.)



TURNER, P.J.



ARMSTRONG, J.



KRIEGLER, J.

EXHIBIT T

Court of Appeal, Second Appellate District, Div. 5 - No. B205118
S161182

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re ROGER D. SUNDBERG on Habeas Corpus

The petition for review is denied.

George, C.J., was absent and did not participate.

SUPREME COURT
FILED

APR 23 2008

Frederick K. Ohlrich Clerk

Deputy

WERDEGAR

Acting Chief Justice

LEGAL MAIL

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Rose

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JUL 2 2 2008
BY U.S. DISTRICT COURT
SAN FRANCISCO, CALIFORNIA

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LEGAL MAIL